

**APPLICATION FOR NOMINATION TO  
JUDICIAL OFFICE**

**SECTION I: PUBLIC INFORMATION  
(QUESTIONS 1 THROUGH 65)**

**PERSONAL INFORMATION**

1. Full Name:

**Kristina Beth Reeves**

2. Have you ever used or been known by any other name?

**Yes**

If so, state name:

**Kristina Beth Lucas**

3. Office Address:

**2036 N Gilbert Rd.  
Suite 2-507  
Mesa, Arizona 85203**

4. How long have you lived in Arizona? What is your home zip code?

**I was born in Safford, Arizona. Because my Father joined the military just before I was born, we moved from Arizona when I was two-months old. From 1980-1981, while my Father was deployed, I returned to Arizona and lived in Thatcher, Arizona with my mother and grandparents.**

**After I retired from the Navy, I returned home to Arizona and I have lived in Mesa since 2012. My home zip code is 85213.**

5. Identify the county you reside in and the years of your residency.

**I have resided in Maricopa County since 2012.**

6. If nominated, will you be 30 years old before taking office?    ☒ yes    ☐ no

If nominated, will you be younger than age 65 at the time the nomination is sent to the Governor?    ☒ yes    ☐ no

7. List your present and any former political party registrations and approximate dates of each:

**I have been registered as a Republican since 1993.**

(The Arizona Constitution, Article VI, § 37, requires that not all nominees sent to the Governor be of the same political affiliation.)

8. Gender: **Female**

Race/Ethnicity: **Caucasian and Native American**

<b>EDUCATIONAL BACKGROUND</b>
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9. List names and locations of all post-secondary schools attended and any degrees received.

**University of California, Los Angeles  
Los Angeles, California  
1993-1997  
Bachelor of Arts, Philosophy**

**University of Chicago Law School  
Chicago, Illinois  
2000-2003  
Juris Doctorate**

10. List major and minor fields of study and extracurricular activities.

**While at UCLA I majored in Philosophy and I did not have a minor. I was a member of the UCLA Naval Reserve Officer Training Corps Unit. I participated in the NROTC Drill Team, a competitive drill team which competes nationally, during all four years of college.**

**While in law school, I was a member of the Minority Students Association and of the student chapter of the Federalist Society.**

11. List scholarships, awards, honors, citations and any other factors (e.g., employment) you consider relevant to your performance during college and law school.

I was awarded a Navy Reserve Officer Training Corps scholarship for college. I also received scholarships during college from the Dolphin Scholarship Foundation, the Daughters of the American Revolution, the Rotary Club, the Veterans of Foreign Wars Association, and the Lions Club.

During college, I served in various positions of responsibility and leadership in the UCLA NROTC Battalion. During my senior year of college, I served as the Battalion Commander, the highest position of leadership for a midshipman. As a midshipman, during my college summers, I participated in military training. For my military training, I was stationed onboard U.S. Naval warships and traveled to San Diego, Hawaii, and Japan. To support myself during college, I was employed full-time. I was employed for several months as a museum guard. I was also employed for three years as an office assistant.

I attended law school under the U.S. Navy's Law Education Program, a competitive program in which the Navy sends highly qualified warfare officers to law school. Under the program, while I was in law school, I served on active duty in the Navy. During my first semester of law school, I gave birth to my first child.

Because I was on active duty during law school, during my summer breaks, I was given military assignments. During both summer breaks, I was stationed at the Great Lakes Naval Training Center in Great Lakes, Illinois. The summer before my 2L year, I served in the office of the Naval prosecutor, assisting in the court-martial of Sailors. The summer before my 3L year, I served in the office of the Staff Judge Advocate, the legal advisor for the base commander. In recognition of my performance while there, I was awarded the Navy and Marine Corps Achievement Medal, Gold Star in lieu of Third Award, by Rear Admiral Rondeau, the Commander of Naval Training Center Great Lakes.

<b>PROFESSIONAL BACKGROUND AND EXPERIENCE</b>
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12. List all courts in which you have been admitted to the practice of law with dates of admission. Give the same information for any administrative bodies that require special admission to practice.

1. **United States Supreme Court**  
**March 2017**

2. **United States Court of Appeals for the Ninth Circuit  
December 2015**
  3. **United States District Court for the District of Arizona  
February 2015**
  4. **Arizona Supreme Court  
May 2014**
  5. **Court of Appeals for the Armed Forces  
June 2007**
  6. **Navy and Marine Corps Court of Criminal Appeals  
December 2006**
  7. **Maine Supreme Court  
October 2003**
13. a. Have you ever been denied admission to the bar of any state due to failure to pass the character and fitness screening?
- No
- If so, explain.
- Not applicable.**
- b. Have you ever had to retake a bar examination in order to be admitted to the bar of any state?
- No.
- If so, explain any circumstances that may have hindered your performance.
- Not applicable.**
14. Describe your employment history since completing your undergraduate degree. List your current position first. If you have not been employed continuously since completing your undergraduate degree, describe what you did during any periods of unemployment or other professional inactivity in excess of three months. Do not attach a resume.

Employer	Dates	Location
Reeves Maxwell Law	June 2018-present	Mesa, Arizona
Arizona Attorney General's Office	June 2015-June 2018	Phoenix, Arizona
U.S. Navy	March 2003-October 2012	Various

**Explanation for Period of Unemployment:**

**When I retired from military service in October 2012, I decided to take a break from the practice of law to stay home with my four young children, including my youngest child who was born in July 2013. I was a homemaker until I returned to the practice of law in June 2015.**

15. List your law partners and associates, if any, within the last five years. You may attach a firm letterhead or other printed list. Applicants who are judges or commissioners should additionally attach a list of judges or commissioners currently on the bench in the court in which they serve.

**Reeves Maxwell Law, PLLC  
Partner: April Maxwell**

**Office of the Arizona Attorney General  
Associates: See attached list.**

16. Describe the nature of your law practice over the last five years, listing the major areas of law in which you practiced and the percentage each constituted of your total practice. If you have been a judge or commissioner for the last five years, describe the nature of your law practice before your appointment to the bench.

**For the last year, I have operated my own appellate practice, handling appeals encompassing many areas of the law. I have handled appeals in the areas of juvenile law, commercial litigation, tort litigation, family law, criminal law, constitutional law, and worker's compensation law. I have drafted appellate briefs, petitions for review, special action petitions, and amicus briefs, as well as motions associated with appellate work, such as motions to stay. The majority of my practice, approximately 90%, is civil law, while about 10% of my practice is criminal law.**

**Before starting my own practice, for three years, I worked in the Capital Litigation Section of the Arizona Attorney General's Office. In this position, I handled capital direct appeals, post-conviction relief petitions, and habeas petitions. I also handled numerous non-capital habeas petitions on behalf of the State of Arizona. During this time, I briefed and argued capital and non-capital cases before the Arizona Superior Courts, Arizona Supreme Court, Arizona District Court, and Ninth Circuit Court of Appeals.**

17. List other areas of law in which you have practiced.

**From 2003 to 2012, I was an officer in the Judge Advocate General Corps of the U.S. Navy. During my time as a JAG, I practiced in numerous areas of the law.**

**As a JAG Officer, I served a tour in the Pentagon as the Military Assistant to the**

General Counsel of the Department of Defense. The General Counsel serves as the senior legal advisor to the Secretary of Defense and Deputy Secretary of Defense. The Military Assistant to the General Counsel serves as a Chief of Staff and legal advisor to the General Counsel. I was nominated to this position by the Judge Advocate General of the Navy. From the four attorneys nominated by each branch of the armed forces, I was selected for this position by the General Counsel. For this position, I received Top Secret/SCI clearance, the highest security clearance available. Some of my activities while in this position are classified and cannot be disclosed here.

The Department of Defense General Counsel's office covers every area of law affecting the Department of Defense, and in this position, I practiced in the areas of government contracting, government ethics, legislative law, administrative law, government litigation, military criminal law, intelligence law, cyberlaw, laws of war and international engagements, and laws regarding the establishment of the military commission system for trying non-government combatants accused of war crimes. I worked closely with the military assistants to the Secretary of Defense and the Undersecretary of Defense for Policy, and with the Department of Defense Office of Detainee Affairs on matters of law within the Department of Defense. While at the General Counsel's office, I traveled to Albania to provide training to senior Albanian military officials on the international laws of war, as part of that country's efforts to join NATO. I also assisted in preparing the General Counsel to testify before Congress on various legal issues affecting the Department of Defense, and accompanied him to Congressional hearings. I also accompanied the General Counsel during his travels outside of D.C.

I also practiced criminal law in the JAG Corps. I prosecuted Sailors in courts-martial for violations of the Uniform Code of Military Justice. I prosecuted crimes ranging from minor offenses to felony level offenses, such as rape and murder. While serving as a prosecutor, I was chosen to serve as a Deputy Chief Prosecutor, responsible for supervising and mentoring approximately twenty other prosecutors. I also was chosen to serve on the prosecution team in the prosecution of multiple members of a Navy SEAL Team who were accused of murdering a non-government combatant, and then committing various illegal acts to cover up their offense. The case garnered national attention, and I was selected to communicate with members of the press on behalf of the prosecution team, providing information on the military justice system in general, and permissible information about the courts-martial of the SEAL Team members.

As a JAG Officer, I also served as an instructor at the Naval Justice School, teaching courses in military administrative law and government ethics.

Additionally, I worked as an appellate defense counsel, representing Sailors and Marines who had been convicted at a court-martial in their appeals of their convictions to the Navy-Marine Corps Court of Criminal Appeals and to the Court of Appeals for the Armed Forces. Again, the offenses involved included a wide-range, from minor offenses to felony level offenses. In this position, I served as a Deputy Chief Appellate Counsel, responsible for supervising and mentoring four other appellate defense counsel.

18. Identify all areas of specialization for which you have been granted certification by the State Bar of Arizona or a bar organization in any other state.

**Not applicable.**

19. Describe your experience as it relates to negotiating and drafting important legal documents, statutes and/or rules.

#### **LEGAL DOCUMENTS**

Over the course of my career as an attorney, I have drafted hundreds of legal documents. As a prosecutor, I drafted numerous plea agreements and various motions and responses. As an appellate attorney, I have written in excess of one hundred merits briefs presented to the Navy and Marine Corps Court of Criminal Appeals, the Court of Appeals for the Armed Forces, Divisions One and Two of the Arizona Courts of Appeals, the Arizona Supreme Court, the District Court of Arizona, and the Ninth Circuit Court of Appeals. These briefs have included opening, answering, and reply briefs, as well as special action petitions and responses to special action petitions, post-conviction relief petitions and responses to post-conviction relief petitions, petitions for review and responses to petitions for review in post-conviction relief proceedings, and answers to habeas petitions. Throughout my career in the JAG Corps, I prepared numerous legal memoranda, recommending certain courses of action and explaining the reasons for my recommendations.

#### **STATUTES AND/OR RULES**

While serving as the Military Assistant to the Department of the Defense General Counsel, I participated in the drafting of the Rules of Evidence and Procedure for Military Commissions.

From 2007-2008, I was appointed to serve on the Court of Appeals for the Armed Forces Rules Advisory Committee. The duties of the Committee were to study the operating rules of practice and procedure before the Court, and to draft and recommend rules and amendments to the Court for its adoption.

20. Have you practiced in adversary proceedings before administrative boards or

commissions?

Yes.

If so, state:

- a. The agencies and the approximate number of adversary proceedings in which you appeared before each agency.

**While in the Navy, I prosecuted approximately twenty administrative discharge boards. In administrative discharge boards, a panel of three officers considers evidence, including witness testimony, regarding a Sailor's alleged misconduct. The board determines if the Sailor did commit the alleged misconduct, and if so, whether the Sailor should be discharged from military service for the misconduct. If the board determines that the Sailor should be discharged, then the board also determines the characterization of the discharge. At an administrative discharge board, a military member may receive an honorable, general, or other-than-honorable discharge. Other characterizations of discharge are only available as punishments in a court-martial. Although an administrative discharge board is considered non-punitive, the Sailor has the right to be represented by an attorney during the hearing.**

- b. The approximate number of these matters in which you appeared as:

Sole Counsel: 20

Chief Counsel: 0

Associate Counsel: 0

21. Have you handled any matters that have been arbitrated or mediated?

Yes

If so, state the approximate number of these matters in which you were involved as:

Sole Counsel: 0

Chief Counsel: 0

Associate Counsel: 1



22. List at least three but no more than five contested matters you negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (3) a summary of the substance of each case: and (4) a statement of any particular significance of the case.

**While serving as a Naval Prosecutor from 2003 to 2005, I negotiated numerous contested courts-martial to settlement. The records of these proceedings are maintained by the federal government and I do not have access to these records. Due to the passage of time, I cannot recall the requested details of any particular case.**

23. Have you represented clients in litigation in Federal or state trial courts?

Yes.

If so, state:

The approximate number of cases in which you appeared before:

Federal Courts: 95

State Courts of Record: 5

Municipal/Justice Courts: 0

The approximate percentage of those cases which have been:

Civil: 50 %\*

Criminal: 50 %

**\*This percentage includes litigation relating to petitions for a writ of habeas corpus resulting from state-court criminal convictions and sentences.**

The approximate number of those cases in which you were:

Sole Counsel: 70

Chief Counsel: 10

Associate Counsel: 10

The approximate percentage of those cases in which:

You wrote and filed a pre-trial, trial, or post-trial motion that wholly or partially disposed of the case (for example, a motion to dismiss, a motion

for summary judgment, a motion for judgment as a matter of law, or a motion for new trial) or wrote a response to such a motion:

**Approximately 6 %.**

You argued a motion described above:

**0**

You made a contested court appearance (other than as set forth in the above response)

**80%**

You negotiated a settlement:

**25%**

The court rendered judgment after trial:

**5%**

A jury rendered a verdict:

**10%**

The number of cases you have taken to trial:

Limited jurisdiction court	0
Superior court	0
Federal district court	0*
Jury	5*

Note: If you approximate the number of cases taken to trial, explain why an exact count is not possible.

**\*All of the cases which I took to trial were in military courts-martial, a type of federal court which is not specifically listed. To the best of my recollection, I served as a prosecutor in a contested court-martial tried to a military judge in approximately fifteen cases. To the best of my recollection, I served as a prosecutor in a contested court-martial tried to a panel of military members, which serve the same function as a civilian jury, in approximately five cases. An exact count is not possible because I cannot recall an exact count due to the amount of time that has passed and because I do not currently have access to the military's records of these proceedings.**

24. Have you practiced in the Federal or state appellate courts?

**Yes.**

If so, state:

The approximate number of your appeals which have been:

Civil: 10\*

Criminal: 40

Other: 0

**\*This number includes appeals related to petitions for a writ of habeas corpus resulting from state-court criminal convictions and sentences.**

The approximate number of matters in which you appeared:

As counsel of record on the brief: 50

Personally in oral argument: 5

25. Have you served as a judicial law clerk or staff attorney to a court? If so, identify the court, judge, and the dates of service and describe your role.

**Not applicable.**

26. List at least three but no more than five cases you litigated or participated in as an attorney before mediators, arbitrators, administrative agencies, trial courts or appellate courts that were not negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency and the name of the judge or officer before whom the case was heard; (3) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case.

*Michael Apelt v. Ryan*, 878 F. 3d 800 (9th Cir. 2017)

**(1) The habeas proceedings in this case began in 1998. I became attorney of record, representing the State, in 2015. Following briefing and oral argument, the Ninth Circuit rendered its opinion in December 2017, and denied en banc review in October 2018.**

**(2) The case was heard before Judge Silver at the District Court of Arizona, and then Judges Callahan, Farris, and Owens at the Ninth Circuit Court of Appeals.**

**(3) Defense Counsel:**

- a. Emily Skinner  
Arizona Capital Representation Project  
emily@azcapitalproject.org  
520-229-8550
- b. Dana Carpenter  
Arizona Capital Representation Project  
danacarpenter5@gmail.com  
602-266-5770.

- (4)** Michael Apelt, a German citizen, and his brother Rudi were con-men who made their living by romancing women, and then conning them out of money. In 1988, Apelt conned his victim into marrying him. After they were married, Apelt took out a large life insurance policy on his wife. The day the insurance policy went into effect, Apelt forced his wife into the trunk of her car, then he and Rudi drove her into the desert, and beat her to death. Apelt was convicted of first-degree murder and sentenced to death. His conviction and sentence were affirmed by the Arizona Supreme Court.

During habeas proceedings, Apelt claimed, among other things, that his defense counsel had rendered constitutionally ineffective assistance because counsel had not done enough of a mitigation investigation, that he was ineligible for the death penalty because he was intellectually disabled, and that the trial court had erred in denying his defense counsel's request for funding to travel to Germany. The District Court denied Apelt's latter two claims, but granted Apelt's habeas petition on his first claim, and set aside his death sentence.

The State appealed the grant of habeas relief and Apelt cross-appealed the denial of habeas relief as to the funding issue and Apelt's alleged intellectual disability. A unanimous panel of the Ninth Circuit reversed the District Court's grant of relief. It held that although defense counsel's actions amounted to deficient performance, the state court's finding that counsel's actions did not prejudice Apelt was not an unreasonable application of clearly established federal law. It also agreed with the district court that Apelt had failed to show that he was entitled to habeas relief on the issues on which he appealed.

- (5)** The case was of particular significance because the federal district court had set aside a death sentence which Arizona's courts had determined had been lawfully imposed. Arizona's courts had rejected Apelt's claim that he had received ineffective assistance from his trial counsel. The Ninth Circuit held that the district court had erroneously failed to review the state court's judgment with the required level of deference.

- (1) The appellate proceedings in this case began in 2014, after Hulsey was convicted and sentenced. I became counsel of record, representing the State, in June 2015. The Arizona Supreme Court rendered its decision in January 2018.
- (2) The appeal was heard by the full Arizona Supreme Court. Justice Lopez had recused himself, so Justice Rebecca Berch heard the appeal.
- (3) Hulsey was represented by David Goldberg, who has passed away.
- (4) In 2007, Bryan Hulsey was a passenger in a car pulled over by Glendale Police Officer David Goitia. During the traffic stop, Officer Anthony Holly arrived to assist in the stop. The driver of the car was determined to have an outstanding warrant and was arrested. Officer Goitia and Officer Holly asked Hulsey to step out of the vehicle so they could pat him down. When Hulsey stepped out of the vehicle, he pulled a gun. Officer Goitia saw the gun and was able to run to cover. Hulsey aimed his gun at Officer Holly's head and without a word, fired. A witness who had been in the back seat of the pulled-over car saw Hulsey shoot Officer Holly. Officer Holly died from his injury. Hulsey was convicted of first-degree murder and received a sentence of death. On appeal, the court affirmed his conviction, but set aside the death sentence.
- (5) The case was significant because it was a capital case involving the murder of a police officer in which the Arizona Supreme Court set aside the death sentence. After Hulsey's trial, but while his appeal was pending, the United States Supreme Court held that, in Arizona, if a capital defendant requested that the jury be instructed that he was not eligible for parole, then he was entitled to have that instruction given. The instruction had not been given in Hulsey's case.

In a capital case, there are three phases to the trial: the guilt phase, where the jury determines if the defendant is guilty of the charged offense; the aggravation phase, where the jury determines if the defendant is eligible for the death penalty due the presence of one or more aggravating factors; and the penalty phase, where the jury determines whether to impose the death sentence. Under prior United States Supreme Court precedent, the parole-eligibility instruction had to be requested in the penalty phase. Hulsey had not requested the instruction during the penalty phase of his trial, but he had requested one during the aggravation phase. The Arizona Supreme Court rejected the State's argument that it was not error for the instruction to have not been given because Hulsey had not requested the instruction in the penalty phase. The court held, for the first time, that a request for an instruction on parole ineligibility in the aggravation phase

could “carry over” to the penalty phase. Because Hulsey had properly requested the instruction, the court held, it was error for the trial court to fail to give the instruction.

*State v. Dann*, CR1999-003536

- (1) The post-conviction relief proceedings began in 2010. I became counsel of record, representing the State, in 2015. The trial court dismissed the PCR petition in May 2016. The Arizona Supreme Court dismissed the petition for review in March 2018.
- (2) Dann was represented by Judge Matthew Newman. Contact information for Judge Newman is provided in the confidential section of this application.
- (3) The PCR petition was heard by Judge Boyd T. Johnson.
- (4) Brian Dann became upset when his girlfriend ended their relationship. At approximately 2 a.m. on April 3, 1999, Dann responded to the break-up by going to the home of his girlfriend’s brother, where she was staying. Dann shot her, her brother, and her brother’s friend, whom Dann had never met, but who had happened to be in the apartment. Dann then called an ex-girlfriend, confessed to the murders, and asked what he should do. Dann went to his ex-girlfriend’s apartment, gave her the gun, disposed of his bloody clothes, and asked his ex-girlfriend to provide him with an alibi for the murders. At about 6 a.m. the next morning, Dann returned to the scene of the murders, pretended to find the bodies, and called 911.

Dann was convicted of the three murders, and the court sentenced him to death. After the United States Supreme Court determined that a death sentence could only be imposed by a jury, a resentencing hearing was held. Dann chose to represent himself at the resentencing hearing. Dann was once again sentenced to death.

During post-conviction relief proceedings, the court held that Dann’s petition failed to present any colorable claims for relief, and dismissed it. Dann filed a petition for review, but while his petition was pending, he died. The court thus dismissed the petition for review.

- (5) After the Arizona Supreme Court confirmed the convictions, and the sentences, Dann filed a petition for post-conviction relief in which he raised numerous claims. After initial briefing was complete, Dann’s appointed PCR counsel withdrew, and new counsel was assigned. After being appointed, Dann’s new PCR counsel moved to withdraw the previously filed petition and file a new petition. While ordinarily the government would object to such a motion, I agreed with the new PCR counsel that the original PCR petition had failed to properly present any of Dann’s claims.

Although it would cause a delay in achieving a final resolution, I did not believe it would be just to object to allowing Dann's newly appointed counsel the opportunity to properly present Dann's claims. Thus, I did not object, and a new PCR petition was filed. Dann did not succeed in obtaining any relief during PCR proceedings, but it was not because he was not given a fair opportunity to do so.

*Copeland v. Ryan*, 852 F. 3d 900 (9th Cir. 2017)

(1) The habeas proceedings in this case began in March 2014, when Copeland filed his habeas petition. I became counsel of record, representing the State, in June 2017. The habeas proceedings are still proceeding in the district court. The interlocutory appeal discussed, however, ended on March 28, 2017, when the Ninth Circuit published its opinion.

(2) The habeas petition was originally before Magistrate Judge Metcalf, then it was before Judge Rosenblatt, in the District Court of Arizona. An interlocutory appeal was filed by the State in the Ninth Circuit. The appeal was heard by Judges Clifton, Berzon, and Garbis of the Ninth Circuit Court of Appeals.

(3) Defense counsel:

Lee Stein  
Mitchell Stein Carey PC  
lee@mitchellsteincarey.com  
602-358-0292.

Emma Isakson  
Mitchell Stein Carey PC  
emma@mitchellsteincarey.com  
602-759-7493.

(4) Copeland was convicted of multiple counts of sexual contact with numerous minors and received sentences totaling approximately 117 years. With his habeas petition, Copeland presented affidavits from two of his victims, in which the victims claimed to recant some of their trial testimony. Based on the affidavits, Copeland claimed that his trial counsel had been ineffective. The magistrate judge recommended that the petition be dismissed, but the District Court Judge ordered an evidentiary hearing on Copeland's claims that rested on the two witness affidavits. Since both witnesses lived out of the state, and because habeas proceeding are civil in nature, the District Court lacked the jurisdiction to order the witnesses to appear for the hearing. Thus, Copeland sought to depose the two witnesses. The district court ordered the video depositions of the witnesses, and ordered the State to pay all costs associated with the depositions.

There is no rule or statute that authorized the District Court to order the State to pay the costs associated with depositions requested by a habeas petitioner. The State disagreed with the District Court's reasoning that the State could be ordered to pay for depositions in a habeas proceeding since the federal government can be ordered to pay for depositions in a criminal proceeding.

The State filed a motion for collateral review of the District Court's orders, or, alternatively, for a writ of mandamus, in the Ninth Circuit. The Ninth Circuit agreed to hear the appeal. It also agreed with the State that the District Court had acted without authority in ordering the State to pay for the depositions, and reversed those orders.

- (5) The case is significant because it is rare for the State to seek collateral review in the Ninth Circuit of a District Court order, and also rare for the Ninth Circuit to accept the appeal and reverse a District Court's interlocutory orders. Although the total amount at issue was not in and of itself significant, the precedent that the district court's orders set could have cost the State significantly. The Ninth Circuit's published opinion reversing the district court's orders prevented such orders from occurring in other habeas cases.

*United States v. Burk*, NMCCA 200800146

- (1) I was assigned as Sergeant Burk's counsel when his appeal began in 2007, after he was convicted of rape, indecent assault, and attempted rape at a general court-martial. The case ended on February 12, 2009, when the Navy-Marine Corps Court of Criminal Appeals issued their decision.
- (2) The appeal was heard by Judges Geiser, Kelly, and Booker, Navy-Marine Corps Court of Criminal Appeals.
- (3) The United States Navy was represented by Lieutenant Commander Paul Bunge, JAGC, USN. LCDR Bunge has left the JAGC, and I am not able to find any current contact information for him.
- (4) SGT Burk served commendably in the Marine Corps for five years, and was described by his supervisor as an outstanding Marine. In 2006, SGT Burk was stationed in South Carolina, where he met Lance Corporal Durrett. After a party, SGT Burk and LCPL Durrett ended up in LCPL Durrett's barrack's room. The next day, when confronted about the incident by her fiancé, LCPL Durrett claimed that SGT Burk had raped her. LCPL Durrett did not report the allegations to any authority, and when confronted by authorities, refused to cooperate in the investigation into her allegations. SGT Burk did not testify at his court-martial, but presented as a defense that the intercourse was consensual.



During voir dire, one of the members (in the military system, both jurors and veniremen are referred to as members), stated that her understanding of the presumption of innocence was not that it was the government's burden to prove guilt beyond a reasonable doubt, but rather, if the evidence of guilt and innocence is equal, then the accused should be found innocent. She also stated that if she were innocent, she would want to testify to her innocence, and that she believed if someone were innocent, they would testify. The defense challenged this member for cause, but the military judge denied the challenge.

During voir dire, another member stated that he believed that if a person is charged with a crime, and is innocent, the person should "speak up and acknowledge that you are not guilty." The defense challenged this member for cause, but the military judge denied the challenge.

On appeal, I argued that the military judge had erred in denying the defense challenges. The appellate court agreed that the military judge had erred, and set aside the findings and sentences.

- (5) The significance of this case is personal. After the appellate court reached its decision, I telephoned SGT Burk to tell him the decision. At that point, SGT Burk had served his sentence and was struggling to make a living with this conviction on his record. SGT Burk was overwhelmed with relief, and sincere happiness. There are some moments as attorneys when we are reminded that what we do matters, and how much other people count on us to do our jobs right. In a legal career, an attorney needs to hold on to those moments, and this was one of mine.

27. If you now serve or have previously served as a mediator, arbitrator, part-time or full-time judicial officer, or quasi-judicial officer (e.g., administrative law judge, hearing officer, member of state agency tribunal, member of State Bar professionalism tribunal, member of military tribunal, etc.), give dates and details, including the courts or agencies involved, whether elected or appointed, periods of service and a thorough description of your assignments at each court or agency. Include information about the number and kinds of cases or duties you handled at each court or agency (e.g., jury or court trials, settlement conferences, contested hearings, administrative duties, etc.).

In approximately 2006, I was appointed to serve as a hearing officer in a hearing conducted under Article 32 of the Uniform Code of Military Justice. An Article 32 hearing serves a purpose similar to a grand jury hearing. The prosecution and the defendant—represented by counsel—present evidence and sworn witness testimony. At the conclusion of the hearing, the hearing officer makes a recommendation to the general court-martial convening authority as to whether there is reason to believe that the accused committed the charged offenses and as to whether the offenses should be tried in a general court-martial.

In approximately 2004, I was appointed to serve as a summary court-martial officer. A summary court-martial is the least severe form of court-martial. The rules of evidence apply at summary courts-martial and the guilt of the accused must be proven beyond a reasonable doubt. As the summary court-martial officer, I received evidence and determined the innocence or guilt of the accused Sailor.

From approximately 2004-2006, I was appointed to serve as a member of the Family Advocacy Panel for Navy Region Southwest. In the Navy, when a Sailor is accused of the abuse or neglect of a child, after an investigation, the evidence is presented to a Family Advocacy Panel. My memory is that the panel consisted of me, as a JAG officer, members of the family advocacy program, and a warfare officer. The panel reviewed evidence of the alleged abuse or neglect and determined if the allegations were substantiated or unsubstantiated. The panel voted on their conclusions and the vote of the majority controlled. The accused Sailor was not permitted to attend the hearing, but the accused Sailor was sometimes represented by a member of his or her command. To the best of my recollection, the panel's findings were reported to the Family Advocacy Program and to the Sailor's command so that further appropriate action could be taken. During my time as a member of the panel, the panel met monthly, and considered on average three to five cases per meeting.

In approximately 1998, I was appointed to serve as a member of a military administrative discharge board.

28. List at least three but no more than five cases you presided over or heard as a judicial or quasi-judicial officer, mediator or arbitrator. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency; (3) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case.

#### **Article 32 Hearing Officer**

- (1) The proceeding was conducted around 2006.
- (2) Military Article 32 Hearing.
- (3) Both the Navy and the accused Sailor were represented by counsel, but I do not recall their identities.
- (4) To the best of my recollection, the Sailor was charged with numerous offenses involving the use and distribution of drugs over a six-month period. I recommended that the accused be tried in a general court-martial.
- (5) There was no particular significance to the case.

### **Summary Court-martial Officer**

- (1) The proceeding was conducted around 2004.**
- (2) Navy summary court-martial.**
- (3) Other than me, no attorneys were involved in the proceeding.**
- (4) The accused had been charged with assaulting another Sailor. I found the Sailor guilty of the charged offense. To the best of my recollection, I sentenced him to 30 days confinement and forfeiture of 2/3 pay per month for one month.**
- (5) There was no particular significance to the case.**

### **Family Advocacy Program Panel Member**

- (1) The proceedings were conducted from approximately 2004 to 2006.**
- (2) Navy Family Advocacy Program Panel.**
- (3) To the best of my recollection, other than me, there were no attorneys involved in any proceeding.**
- (4) I do not recall the details of any particular case.**
- (5) There was no particular significance to any case.**

### **Administrative Discharge Board Panel Member**

- (1) The proceeding was conducted around 1998.**
- (2) Administrative Discharge Board.**
- (3) The Sailor was represented by counsel, but I do not recall the identity of the counsel.**
- (4) The three-member panel unanimously determined that the Sailor had used illegal drugs and discharged the Sailor with a general discharge.**
- (5) There was no particular significance to the case.**

29. Describe any additional professional experience you would like to bring to the Commission's attention.

**In 1997, I received a commission as an officer in the United States Navy. I chose to serve as a Surface Warfare Officer — an officer on board Naval warships. My first**

duty station was on board a Spruance Class Destroyer based in Pearl Harbor. As a division officer, I had the duty and responsibility of leading forty enlisted Sailors. I was also given the responsibility of leading a team of Sailors responsible for responding to internal threats to the ship, such as flooding and fire. During my tour, the ship was deployed to the Northern Arabian Gulf. During that deployment, I had the opportunity to visit Diego Garcia, Australia, Thailand, Hong Kong, Oman, and the United Arab Emirates. While in the Gulf, the mission of my ship was to board and search cargo vessels in order to help enforce the United States embargo of Iraq.

While I was stationed onboard the ship, in addition to leading my division, I was required to learn ship warfighting skills. Within my first eighteen months onboard, I earned my surface warfare pin, signaling my qualification as a surface warfighter.

During my deployment to the Gulf, my ship participated in Operation Desert Fox, a military operation in which, over a four-day period, numerous missiles were launched on Iraq. While conducting these operations, I served as the conning officer, responsible for using rudder and engine commands in order to maintain the ship's exact required position on a moving ocean during the missile launches.

I also served as a division officer onboard an aircraft carrier based out of Bremerton, Washington. While I was assigned to the carrier, it was in "dry-dock," which is when a ship is taken out of the water and major repairs are completed on the whole ship. As a division officer, I oversaw the repair projects in the areas of the ship for which my division was responsible.

<b>BUSINESS AND FINANCIAL INFORMATION</b>
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30. Have you ever been engaged in any occupation, business or profession other than the practice of law or holding judicial or other public office, other than as described at question 14?

No.

If so, give details, including dates.

Not applicable.

31. Are you now an officer, director, majority stockholder, managing member, or otherwise engaged in the management of any business enterprise?

**Yes.**

If so, give details, including the name of the enterprise, the nature of the business, the title or other description of your position, the nature of your duties and the term of your service.

**I am a partner in Reeves Maxwell Law, PLLC. It is an appellate law practice. My duties in the practice include managing the firm and representing clients.**

Do you intend to resign such positions and withdraw from any participation in the management of any such enterprises if you are nominated and appointed?

**Yes.**

If not, explain your decision.

**Not applicable.**

32. Have you filed your state and federal income tax returns for all years you were legally required to file them?

**Yes.**

If not, explain.

**Not applicable.**

33. Have you paid all state, federal and local taxes when due?

**Yes.**

If not, explain.

**Not applicable.**

34. Are there currently any judgments or tax liens outstanding against you?

**No.**

If so, explain.

**Not applicable.**

35. Have you ever violated a court order addressing your personal conduct, such as orders of protection, or for payment of child or spousal support?

**No.**

If so, explain.

**Not applicable.**

36. Have you ever been a party to a lawsuit, including an administrative agency matter but excluding divorce?

**No.**

If so, identify the nature of the case, your role, the court, and the ultimate disposition.

**Not applicable.**

37. Have you ever filed for bankruptcy protection on your own behalf or for an organization in which you held a majority ownership interest?

**No.**

If so, explain.

**Not applicable.**

38. Do you have any financial interests including investments, which might conflict with the performance of your judicial duties?

**No.**

If so, explain.

**Not applicable.**

<b>CONDUCT AND ETHICS</b>
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39. Have you ever been terminated, asked to resign, expelled, or suspended from employment or any post-secondary school or course of learning due to allegations of dishonesty, plagiarism, cheating, or any other "cause" that might reflect in any way on your integrity?

**No.**

If so, provide details.

**Not applicable.**

40. Have you ever been arrested for, charged with, and/or convicted of any felony, misdemeanor, or Uniform Code of Military Justice violation?

**No.**

If so, identify the nature of the offense, the court, the presiding judicial officer, and the ultimate disposition.

**Not applicable.**

41. If you performed military service, please indicate the date and type of discharge. If other than honorable discharge, explain.

**I served in the Navy from September 1993 to May 1997 as a midshipman, and from May 1997 to October 2012 as an officer. I was given an honorable discharge.**

42. List and describe any matter (including mediation, arbitration, negotiated settlement and/or malpractice claim you referred to your insurance carrier) in which you were accused of wrongdoing concerning your law practice.

**Not applicable.**

43. List and describe any litigation initiated against you based on allegations of misconduct other than any listed in your answer to question 42.

**Not applicable.**

44. List and describe any sanctions imposed upon you by any court.

**Not applicable.**

45. Have you received a notice of formal charges, cautionary letter, private admonition, referral to a diversionary program, or any other conditional sanction from the Commission on Judicial Conduct, the State Bar, or any other disciplinary body in any jurisdiction?

**No.**

If so, in each case, state in detail the circumstances and the outcome.

**Not applicable.**

46. During the last 10 years, have you unlawfully used controlled substances,

narcotic drugs or dangerous drugs as defined by federal or state law?

**No.**

If your answer is "Yes," explain in detail.

**Not applicable.**

47. Within the last five years, have you ever been formally reprimanded, demoted, disciplined, cautioned, placed on probation, suspended, terminated or asked to resign by an employer, regulatory or investigative agency?

**No.**

If so, state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) and contact information of any persons who took such action, and the background and resolution of such action.

**Not applicable.**

48. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs?

**No.**

If so, state the date you were requested to submit to such a test, type of test requested, the name and contact information of the entity requesting that you submit to the test, the outcome of your refusal and the reason why you refused to submit to such a test.

**Not applicable.**

49. Have you ever been a party to litigation alleging that you failed to comply with the substantive requirements of any business or contractual arrangement, including but not limited to bankruptcy proceedings?

**No.**

If so, explain the circumstances of the litigation, including the background and resolution of the case, and provide the dates litigation was commenced and concluded, and the name(s) and contact information of the parties.

**Not applicable.**



<b>PROFESSIONAL AND PUBLIC SERVICE</b>
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50. Have you published or posted any legal or non-legal books or articles?

Yes.

If so, list with the citations and dates.

**From approximately June 2018 to May 2019, my firm published an appellate blog on our firm's website. The blog contained articles discussing published appellate opinions in Arizona, as well as other items of interest regarding the Arizona appellate courts. I either wrote or edited every article on the blog. In anticipation of filing this application, out of an abundance of caution and in order to comply as fully as possible with Canon Four of the Arizona Code of Judicial Conduct, I took down the blog. At the time the blog was taken down, it had approximately 177 posts. I have attached a list of the titles and dates of publication for every post that appeared on the blog. I would be happy to provide a .pdf copy of any post requested.**

51. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

Yes.

If not, explain.

**Not applicable.**

52. Have you taught any courses on law or lectured at bar associations, conferences, law school forums or continuing legal education seminars?

Yes.

If so, describe.

**In February 2019, I served as a panel member for a discussion on women and conservatism which was held at the ASU law school. The panel was sponsored by the student chapter of the Federalist Society.**

**From 2005 to 2006, I taught military administrative law at the Naval Justice School.**

53. List memberships and activities in professional organizations, including offices held and dates.

**Arizona Women in Law Association: 2014-present**  
**Leadership Appointments Committee: 2017-present**  
**Judicial Appointments Committee: 2017-present**  
**Membership Committee: 2014-2015**  
**J. Reuben Clark Law Society: April 2015-present**  
**Women in Law Chair/Board Member, Phoenix Chapter: June 2015-present**  
**Chair-Elect, Phoenix Chapter: February 2019-present**  
**Federal Bar Association: 2016-present**  
**Federalist Society: 2001-2003, 2015-present**  
**Republican National Lawyers' Association; 2006-present**  
**Lorna Lockwood Inn of Court: 2019-present**  
**Maricopa County Bar Association: 2014-2015**  
**Committee on Diversity: 2014-2015**  
**Native American Bar Association of Arizona: 2018-present**  
**State Bar of Arizona Appellate Section: 2018-present**  
**State Bar of Arizona Solo/Small Firm Section: 2018-present**

Have you served on any committees of any bar association (local, state or national) or have you performed any other significant service to the bar?

**Yes.**

List offices held in bar associations or on bar committees. Provide information about any activities in connection with pro bono legal services (defined as services to the indigent for no fee), legal related volunteer community activities or the like.

**From 2014 to 2015, I served on the Diversity Committee of the Maricopa County Bar Association.**

**In 2015, I volunteered with Community Legal Services to provide pro bono legal services to indigent members of the community. Also in 2015, I volunteered with Disabled American Veterans to provide pro bono legal services to veterans.**

54. Describe the nature and dates of any relevant community or public service you have performed.

### **Volunteer Legal Work**

**The Goldwater Institute is a public-policy research and litigation organization focused on advancing principles of limited government, economic freedom, and**

individual liberty. Since 2018, I have participated in the Institute's Volunteer Lawyer Network. As a volunteer with the Institute, for the last year, I have provided pro bono representation for a property owner in her appeal in a suit against the City of Phoenix regarding Phoenix's improper imposition of a development fee when the property owner built a school on her property. The appeal has been fully briefed and is scheduled to be argued before the Arizona Court of Appeals.

In 2018, I was approached by a young Mother who had overcome homelessness and drug addiction, but who had nonetheless had her rights to her two children terminated by the State. The Mother could not pay my regular fee, but I believed that the termination of her parental rights had been unjust. I could not refuse to help her. I agreed to represent her for a nominal fee. I am representing her in her appeal of the termination of her parental rights. The appeal is fully briefed and is scheduled to be argued before the Arizona Court of Appeals.

In 2018, I volunteered to serve as a judge for Arizona's High School Mock Trial Program.

#### Service to the Community

In my church, members are given the opportunity to serve in various callings, or jobs, for the benefit of the entire congregation. In my church I have volunteered to serve in many callings, such as serving in the leadership for the organization for women, as a church librarian, and as a Sunday School teacher. Throughout my years as a member of my church, I have participated in many service activities, including making blankets for homeless shelters, collecting clothing for women's shelters, collecting food for food banks, collecting books for schools, providing Christmas gifts for children in foster care, taking meals to those in need, and many others. My church frequently provides opportunities for members to participate in community service and, when I can, I take advantage of each opportunity.

55. List any relevant professional or civic honors, prizes, awards or other forms of recognition you have received.

1. Defense Meritorious Service Medal\*
2. Meritorious Service Medal\*
3. Navy and Marine Corps Commendation Medal\*
4. Navy and Marine Corps Achievement Medal, Gold Star in lieu of Fourth Award\*
5. Navy and Marine Corps Achievement Medal, Gold Star in lieu of Third Award\*
6. Navy and Marine Corps Achievement Medal, Gold Star in lieu of Second Award\*

7. Navy and Marine Corps Achievement Medal\*
8. Navy Unit Commendation Medal, awarded for outstanding heroism in action against the enemy.
9. Joint Service Achievement Medal, awarded for exceptional service while serving in a joint military command.
10. National Defense Service Medal, awarded for honorable service during a time of armed conflict.
11. Armed Forces Expeditionary Medal, awarded for participation in military operations in defense of the United States and its allies.
12. Global War on Terrorism Service Medal, awarded for supporting counter terrorism operations after September 11, 2001.
13. Sea Service Deployment Ribbon, awarded for serving on a Naval warship while it was forward-deployed.
14. Navy Pistol Markman Ribbon, awarded for achieving exceptional marksmanship with a pistol.
15. Office of the Secretary of Defense Service Badge, awarded for completing an assignment with the Office of the Secretary of Defense.

**\*A copy of the award citation is attached.**

56. List any elected or appointed public offices you have held and/or for which you have been a candidate, and the dates.

**Not applicable.**

Have you ever been removed or resigned from office before your term expired?

**No.**

If so, explain.

**Not applicable.**

Have you voted in all general elections held during the last 10 years?

**Yes.**

If not, explain.

**Not applicable.**

57. Describe any interests outside the practice of law that you would like to bring to the Commission's attention.

**My husband and I have been married for almost twenty years and have four amazing children. My greatest interest and my first priority is my family. With**

four kids, our lives can sometimes get very busy and a little chaotic. Most of my evenings are spent driving my kids to various activities, helping them with their homework, and trying to make sure they get dinner at some point. I spend an extraordinary amount of time on soccer fields, especially on weekends. When we can, my husband and I enjoy playing golf when the weather is nice, and racquetball when it is not. My sons and I are fans of science fiction. We enjoy Marvel movies, Star Wars, and Doctor Who, and I will often interject random sci-fi quotes into everyday conversation. I have never been able to persuade my oldest daughter to share my love of sci-fi, but I have hope for my 5-year old.

When we have the opportunity to do so, my husband and I like to take our children to spend time in the mountains. My husband prefers to camp in the mountains, but I do not like camping, so we compromise and do not camp. My grandfather and my father loved to fish, and I spent a lot of my childhood fishing. It is an activity I still enjoy, and we fish a lot when we go to the mountains, but I admit that I leave the task of cleaning the fish to my husband. My favorite activity in the mountains though, is sitting around a campfire with my family, talking and roasting marshmallows. We do not make s'mores though. No one in my family, me included, understands why anyone would ruin a perfectly good roasted marshmallow by smooshing it between two graham crackers.

## HEALTH

58. Are you physically and mentally able to perform the essential duties of a judge with or without a reasonable accommodation in the court for which you are applying?

Yes.

## ADDITIONAL INFORMATION

59. The Arizona Constitution requires the Commission to consider the diversity of the state's population in making its nominations. Provide any information about yourself (your heritage, background, life experiences, etc.) that may be relevant to this consideration.

If I have the honor of serving on the appellate court, with my heritage, background, and life experience, I would bring significant diversity to the court. I am a proud citizen of the Muscogee (Creek) Nation. The Muscogee (Creek) Tribal land is in Oklahoma. During the Great Depression, my grandfather's family left their tribal lands in Oklahoma in order to find work. They ended up

settling in what was then Solomonville, Arizona. When my grandfather's family first arrived in Arizona, his father could not find work. My grandfather's family, and there were 8 of them, lived in a cave, hidden in the mountains, until my great-grandfather found a steady job.

Although Arizona is not home to my tribe, it is home to twenty-one Native American tribes. Native Americans have always represented a significant portion of the population of the State. In the history of Arizona, however, there has never been a Native American on any of Arizona's state courts. As a Native American, I would bring that diversity to the court. Also, of the twenty-eight appellate court judges in Arizona, only five are women. As a woman, I would bring that diversity to the court as well.

In addition to my Native American heritage and gender, I would also bring diversity to the court because of my background. I am among the first in my family, and the first woman in my family, to have earned a college degree. While education was something my family valued, growing up, college was never expected or encouraged. In my family, attending college was viewed as something other people did. I am also the first—and at this point the only—person in my family to ever earn a professional degree. When I graduated from law school, my grandparents took their first ever airplane ride in order to travel out to Chicago to attend my graduation. My grandfather, a man of few words, told me "well done." For my grandfather, it was the height of praise and expression of pride. These experiences would allow me to bring additional diversity to the court.

Finally, my life experience of serving in the military would allow me to bring additional diversity to the court. During my military service, I deployed to the Middle East and participated in military operations in defense of this country. I also had the opportunity to visit many foreign nations, including Australia, the United Arab Emirates, Thailand, and Japan, as a member of the U.S. military. The experience of serving this country, and of visiting other countries, provides me with a unique appreciation for our constitution and our democracy which I believe will contribute to the diversity of the court.

60. Provide any additional information relative to your qualifications you would like to bring to the Commission's attention.

Just before I was born, my Father joined the Navy. My Father served in the Navy for twenty-two years. I spent my childhood as a military brat, growing up on military bases around the country. During my childhood, we moved very frequently, and nearly every year brought a new city, a new state, and a new school. By necessity, I learned how to quickly adapt to new situations and new environments. This skill served me well during my military service. Throughout my service, I changed jobs on average every two years. Being able to master a new

job quickly is part of what allowed me to succeed in the military. I believe that skill would be an asset if I am appointed to the court, as nearly every case decided by the court presents a new challenge that must be met quickly, but with thought and deliberation.

As a Naval officer, I was taught leadership. Because many of the skills that make a good leader also make a good judge, I believe my experience as a Naval officer will allow me to do well as an appellate court judge. For example, one of the most important tenets of leadership is that a good leader takes care of their people; a good leader puts others before themselves. Doing this requires humility. Being a good judge also requires humility. A good judge will acknowledge and work within the limits of her authority, and will know that her judgment about what the law should be does not outweigh the judgment of the those elected to the legislature who have determined what the law is.

61. If selected for this position, do you intend to serve a full term and would you accept rotation to benches outside your areas of practice or interest and accept assignment to any court location?

Yes.

If not, explain.

Not applicable.

62. Attach a brief statement explaining why you are seeking this position.

See attached.

63. Attach two professional writing samples, which you personally drafted (e.g., brief or motion). **Each writing sample should be no more than five pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing samples. Please redact any personal, identifying information regarding the case at issue, unless it is a published opinion, bearing in mind that the writing sample may be made available to the public on the commission's website.

See attached.

64. If you have ever served as a judicial or quasi-judicial officer, mediator or arbitrator, attach sample copies of not more than three written orders, findings or opinions (whether reported or not) which you personally drafted. **Each writing sample should be no more than ten pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing sample(s). Please redact any personal, identifying information regarding the case at issue, unless it is a published opinion, bearing in mind that the writing sample may be

made available to the public on the commission's website.

**There are no written findings, orders, or opinions that apply.**

65. If you are currently serving as a judicial officer in any court and are subject to a system of judicial performance review, please attach the public data reports and commission vote reports from your last three performance reviews.

**Not applicable.**

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(CONFIDENTIAL INFORMATION) ON NEW PAGE --**



# ATTACHMENT

## ONE

List of Associates at the  
Arizona Attorney General's Office

**Office of the Arizona Attorney  
General Solicitor General  
Division**

**Phoenix Attorneys**

**ANDERSON, Jon  
BICKETT, Paula  
BRACCIO, Myles  
CHAPMAN-HUSHEK, Nicholas  
COLE, Dave  
CLAW, Gracynthia  
CRANDELL, Rusty  
CRIST, Terry  
DEROSE, Christopher  
DONE, Julie  
EASTERDAY, Jason  
FRANCIS, Jillian  
GARCIA, Elizabeth  
GERINGER, Meri  
HAZARD, Greg  
HOGAN, Michelle  
JARVIS, Ginger  
JONES, Alice  
KNOBLOCH, Eric  
KOZUB, Toni Valadez  
LEWIS, Jason  
MAZIARZ, Joe  
MILLS, Colby  
NIELSEN, Jim  
O'TOOLE, Michael  
PATON, Angie  
PAPPAS, Andrew  
PONCE, Adele  
REILLY, Andrew  
ROYLE, Karin  
SOLAND, Craig  
SIMON, Scott  
SIMPSON, David  
SPARKS, Jeff  
SWEENEY, Kathleen  
TODD, John  
VALENZUELA, Michael  
WALSH, Robert  
WILSON, Linley  
YBARRA, Eliza  
ZINMAN, Jana**

**Tucson Attorneys**

**AMBRI, Mariette Spence  
CAIN, Amy  
CHIASSEON, Laura  
DAMSTRA, Kathryn  
GARD, Lacy  
HUNT, Diane  
KELLY, Tanja  
LANUM, Jacinda  
MOODY, Karen  
SULLIVAN, David  
THORSON, Amy**

**LOPEZ, John (Solicitor General)  
DRAYE, Dominic (Solicitor General)**

ATTACHMENT

TWO

List of Blog Posts

<b>Title</b>	<b>Date Posted</b>
Normandin v. Encanto: ASC takes a piñata stick to COA's opinion regarding recreational immunity.	5.21.19
COA1 Leadership Change- Missing Judge Found	5.17.19
Meno's Construction v. Reyes: COA1 holds that an employee may have multiple employers.	5.17.19
AZ Electric Power v. DJL 2007: COA1 determines the valuation date for private condemnations	5.16.19
State v. Tagge: COA1 holds that a person in a car in a public place, is also in a public place.	5.15.19
State v. Hernandez: COA2 gets really confused about Willits instructions.	5.14.19
Dabrowski v. Bartlett: COA1 holds that when it comes to easements, sometimes different owners can legally be one owner.	5.10.19
Natasha S. v. DCS: COA1 holds the courts can't solve all your problems	5.10.19
New COA1 Panels Released; but someone is missing	5.7.19
Arizona's parental-rights-termination statutes are unconstitutional- Part 3	5.6.19
Shepherd v. Costco: COA1 holds that Costco can't hide behind privacy laws when it embarrasses a customer.	5.2.19
ASC Pending Cases (May 2019)	5.1.19
Morales v. Archibald: ASC holds that when collecting signatures, it's really important to follow all of the rules.	4.29.19
Paul E. v. Courtney F.: ASC holds that a court's authority to limit a parent's fundamental right to their child is itself limited.	4.29.19
State v. Rose: COA2 holds courts may admit evidence that the defendant committed sexual offenses while a juvenile	4.24.19
Navajo Nation v. DCS: COA1 holds when a statute requires an expert, then an expert is required.	4.24.19
State v. Robertson: COA1 holds a defendant cannot complain about an error to which they agreed.	4.23.19
State v. Healer: COA2 holds the unconstitutionality of a juvenile life sentence has no affect on the juvenile's other sentences.	4.22.19
Ironwood v. Randall: COA1 holds when it comes to renewing a judgment, it's all about where the judgment was docketed.	4.18.19
Arizona's parental-rights-termination statutes violate the federal constitution-Part Two	4.17.19
Piccioli v. City of Phoenix: COA1 holds that Phoenix officials can change how pension benefits are calculated.	4.17.19

State v. Hernandez: COA1 holds that when a defendant makes a noise, but no one is around to hear it, he does not actually commit a completed offense.	4.17.19
Duff v. Tucson PD: COA2 holds FASTAR is good to go.	4.15.19
Paradigm v. Pima: COA2 holds friends don't make friends pay their attorney fees.	4.15.19
Arizona's parental-rights-termination statutes violate the federal constitution-Part One	4.5.19
A.R. v. DCS: COA1 holds that a best-interest analysis requires consideration of the child's best-interests.	4.5.19
State v. Quijada: COA1 holds a victim can be compelled to testify about their restitution claims.	4.3.19
ASC Pending Cases (April 2019)	4.2.19
City of Surprise v. Lake Pleasant: ASC holds the Arizona Corporation Commission can do anything for consumers, but it can't do that.	3.29.19
State v. Lietzau: COA2 holds that if someone agrees to a warrantless search, then the State can conduct a warrantless search.	3.27.19
Pitts v. Chandler: COA1 holds that if the city wants to claim untimeliness on a PTSD worker's comp claim, they need a doctor's note.	3.26.19
Apodaca v. Keeling: COA1 holds that for Rule 77(h) sanctions, a superior court must compare the whole arbitration award to the whole judgement.	3.25.19
Bekelian v. JP Morgan: COA1 holds superior claimants can take their time in applying for funds.	3.22.19
State v. Zeitner: ASC holds you can't hide behind physician-patient privilege when defrauding the state.	3.19.19
Harle v. Williams: COA1 holds that until a judgment is legally enforceable, the expiration clock has not begun.	3.18.19
Brittner v. Lanzilotta: COA1 holds that court-appointed therapists who provide some therapy while advising the court, are entitled to judicial immunity for everything.	3.18.19
Terrell v. Torres: In a split decision, COA1 holds balance of interests favors awarding frozen embryos to the mother.	3.15.19
Gibson v. Theut: COA1 holds that when the government negligently supplies a litigant with a bad lawyer, the government is liable.	3.15.19
Ansley v. Banner Heath: COA1 holds hospitals cannot place liens on non-existent debts.	3.14.19
JH2K I v. ADHS: COA1 holds a school basketball court is part of the school.	3.14.19

Lagerman v. ASRS: COA1 declines the use of a time machine for retirement benefits...where is a TARDIS when you need one?	3.14.19
Johnson v. ACC: COA1 holds that when it comes to utility companies, the Arizona Corporation Commission has the power.	3.13.19
Lawrence T. v. DCS: COA1 holds doctrine of issue preclusion may be fine for every other type of proceeding, but it does not apply in severance proceedings.	3.13.19
Rosas v. ADES: COA1 holds daycare workers were entitled to unemployment benefits during summer break.	3.12.19
Lehn v. Al-Thanyan; COA1 holds when you lie to the court, you get what you get and you don't throw a fit.	3.12.19
State v. Gomez: COA1 holds that in DUI, what you don't know can hurt you.	3.12.19
Diaz v. Bernini: ASC holds Arizona's implied consent statute does not require voluntary consent for a breath test.	3.6.19
State v. Anda: ASC holds that a person is not "compelled" to submit to a BAC test simply because they are told of the consequences of refusal before they consent.	3.6.19
Chief Justice Bales announces his retirement	3.5.19
ROI v. Ford: COA1 holds that a property must be used for education for the entire year to qualify for the education tax exemption.	3.5.19
Span v. Maricopa: COA1 holds county was not "unjustly enriched" when it collected taxes it had no legal right to collect.	3.4.19
ASC Candidates; and then there were five.	3.4.19
Quijada v. Quijada- COA1 holds that if your attorney doesn't do his job right, the court can't fix it a decade later.	3.4.19
Saban v. ADOR: ASC holds car rentals are not "related to" the use of cars.	2.28.19
State v. Weakland: In a closely divided opinion, ASC clarifies that good-faith is good as long as no court has specifically said it's bad.	2.27.19
Sandra R. v. DCS: COA1 holds that in Arizona, what SCOTUS says the US Constitution requires is really more of a suggestion	2.22.19
SK Builders v. Smith: COA2 gives builders the burden of proof in Arizona Prompt Payment Act.	2.22.19
Judge Welty to take over leadership of the Maricopa County Superior Courts	2.22.19
ASC Candidates	2.21.19
Meyer v. State: COA1 holds the State's attempt to usurp power to regulate employee benefits was unconstitutional.	2.20.19
Siete Solar v. ADOR: COA1 holds equal taxation means ADOR wins...it always wins.	2.19.19

State v. Reed: COA1 holds death of defendant means death of an appeal of a restitution order.	2.19.19
Lay v. Nelson: COA1 holds subject-matter jurisdiction can arise based on the location of the “result” of a crime.	2.12.19
State v. Morris: COA2 holds that “The crime of shoplifting is complete at time of concealment.”	2.12.19
Rohan v. Jantzen: COA1 holds when it comes to the superior courts, there’s no “I” in “team.”	2.7.19
Crosby v. Fell- ASC holds a no in a juvenile proceeding equals a no in a criminal proceeding.	2.7.19
State v. Kaipio- COA1 holds bail is not possible for a federal prisoner on loan to the State.	2.4.19
Arizona Supreme Court Pending Cases (February 2019)	2.4.19
Buckholtz v. Buckholtz: COA1 holds a marital separation agreement must be valid under contract law.	1.28.19
Danial v. AAA: COA1 holds, when it comes to independent contractors, it’s all about control.	1.28.19
Justice Pelander to stick around a little longer.	1.18.19
Nicaise v. Sundaram: ASC to COA1; no, just no.	1.18.19
Clecker v. ADHS: COA1 holds the language of the statute rules, not the lobbyists’ intent.	1.18.19
Holly C. v. Tohono O’Odham Nation: COA2 shakes its head at a non-aggrieved party’s attempt to appeal	1.15.19
Pacific Western Bank v. Castleton: COA1 holds a lien plus a homestead means you got nothin’.	1.15.19
State v. Kellywood: COA2 disagrees whether a request for records was specific enough.	1.11.19
Prouty v. Hughes: COA1 holds foreign child custody orders do not have to be registered in Arizona	1.11.19
Jackson v. Eagle: ASC holds the law stays with the State that pays.	1.3.19
Davis v. Davis: COA1 holds “court appointed advisor” is not a “court.”	1.3.19
Vera v. Rogers: COA1 holds when it comes to parenting-time and protective orders, choose well.	12.31.18
Conklin v. Medtronic: ASC holds Ninth Circuit “incorrectly recited and applied Arizona law” regarding medical device claims.	12.20.18
Waltz Healing v. ADHS: COA1 holds that an expired letter is...well...expired.	12.19.18
Aguirre v. Goodyear: Failure to raise an argument in an ALJ review does not forfeit the argument on appeal.	12.19.18
State v. Duarte: COA2 holds that being asleep “substantially impairs” a victim’s capacity to resist.	12.14.18

Roe v. Clark: COA2 holds statute of frauds really does require conveyances of land to be in writing.	12.13.18
Cabanas v. Pineda: COA1 misreads SCOTUS opinion and calls into question numerous juvenile life sentences.	12.13.18
State v. Trammell- COA1 holds that the defendant doesn't get to decide what charges the state can bring.	12.12.18
State v. Hedlund: ASC tells Ninth Circuit to pound sand – again.	12.10.18
Spooner v. City of Phoenix: COA1 holds police officers are not liable for simple negligence in investigative work.	12.7.18
ASC Pending Cases (December 2018)	12.6.18
Leach v. Reagan/Clean Energy: In a divided opinion, ASC explains why it rejected challenges to including Prop. 127 on the November ballot.	12.6.18
Phoenix City Prosecutor v. Lowery/Craig: ASC holds that when Husband is victim of one unitary event, Wife cannot invoke marital privilege to preclude Husband's testimony.	12.6.18
Berrier v. Rountree: COA1 holds everyone screwed up and they all need to try again.	12.5.18
Burns v. City of Tucson: COA2 holds relocation assistance statutes do not provide a private right of action.	12.4.18
Hopi v. Snowbowl: ASC rejects Hopi's claim that Snowbowl's use of reclaimed wastewater to make snow is a public nuisance causing them special harm.	12.3.18
Bank of NY v. Dodev: COA1 shuts down a debtor's multiple creative attempts to avoid eviction.	11.29.18
Dupray v. Jai Dining: COA1 vacates jury verdict due to lack of proper causation instruction.	11.28.18
Stanwitz v. Reagan- ASC holds if subpoenaed, circulators must appear in court in order for the signatures they collected to be counted.	11.26.18
ASC announces a change in leadership	11.20.18
Ahmad v. State: COA1 holds remittitur ain't no easy thing.	11.20.18
Aleise v. DCS: COA1 holds juvenile law litigants must raise a lack of adequate findings with the trial court, or forever hold their peace.	11.19.18
Joelle v. DCS: COA1 holds the court must consider the individual needs of a special-needs child in a termination proceeding.	11.13.18
State v. Helm: COA2 holds multiple sentences does not a life sentence make.	11.9.18
Carey v. Soucy: COA1 holds garnishment is a remedy, not a cause of action.	11.7.18
State v. Lohse: COA2 holds a sign plus a fence means police are not welcome.	11.6.18



Ochoa v. Bojorquez: COA2 holds two judicial officers equals one family law case.	11.5.18
Arizona Supreme Court Pending Cases for November 2018	11.2.18
Hoffman v. Reagan: ASC holds Clean Elections initiative can stay on the November ballot.	11.1.18
State v. Torres: COA1 holds State can take inmate's Christmas gift to satisfy child support obligation.	10.31.18
Arizona seeks cert over the question of the federal constitutionality of Arizona's bailable offenses amendment.	10.30.18
Molera v. Reagan: ASC holds confusing voter initiatives cannot get on the ballot.	10.29.18
State v. Green: Court of appeals changes its mind, for the third time, on whether trying to buy drugs counts as having drugs.	10.23.18
Amadore v. Lifgren: COA1 sheds some light on a couple of recurring family law issues	10.22.18
Starr Pass Resort v. Harrington: COA2 holds supersedeas bonds are not a cash only thing	10.18.18
Doneson v. Farmers Insurance: COA2 holds that when it comes to workers comp, "entitled to" equals "required."	10.17.18
Tucson v. Tanno: COA2 rejects challenges to property value determination in eminent domain case.	10.16.18
Soza v. State: COA2 holds that when police violate a state statute, but not the constitution, in conducting a search, the exclusionary rule does not apply	10.16.18
Ball v. Phoenix Orchard: COA1 holds that when it comes to derivative suits, continuous ownership is required.	10.8.18
ASC orders new rules for supersedeas bonds	10.3.18
Karp v. Chalker: After 25 years, attorneys finally get paid, with interest.	10.2.18
ASC Pending Cases (October 2018)	10.1.18
State v. Carter: COA2 splits with COA1 over lesser included offenses.	9.28.18
State v. McKinney: In capital case, ASC tells Ninth Circuit to pound sand.	9.27.18
Monique B. v. Duncan: COA1 holds exclusive jurisdiction means other courts don't have jurisdiction.	9.27.18
COA2 Opinion Analysis: Court holds that sex-offender registration is a "penalty."	9.26.18
ASC Opinion Analysis: Court affirms death sentence for 2011 murder.	9.25.18
COA1 Opinion Analysis: COA1 holds win neighbors fight, there actually is a winner – legally speaking.	9.25.18

COA2 Opinion Analysis: COA2 holds class is out for Ferrara	9.24.18
ASC Opinion Analysis: ASC clarifies (finally) fundamental error review.	9.24.18
ASC Opinion Analysis: ASC upholds death sentence of child murderer.	9.23.18
COA1 Opinion Analysis: COA1 holds abusing kids is bad, even if they are not your kids.	9.22.18
ASC Opinion Analysis: ASC holds courts must not subordinate the interests of the child in a termination hearing.	9.16.18
ASC Pending Cases (September 2018)	9.15.18
COA1 Opinion Analysis: Court holds neighbor's complaint did not amount to a legal encumbrance.	9.13.18
COA2 Opinion Analysis: Court holds when an attorney signs a document, it is not automatically signed under penalty of perjury.	9.12.18
COA1 Opinion Analysis: Court shakes its head at Bank's belated attempts to fix its mistake.	9.11.18
COA2 Opinion Analysis: "It depends" is Court's answer to whether a gun rights restoration proceeding is civil or criminal in nature.	9.10.18
COA1 Opinion Analysis: Court holds sometimes not Facebook-stalking your ex can cost you.	9.7.18
COA1 Opinion Analysis: Court holds a hand gesture, that no one sees, can still count as simulating a deadly weapon.	9.6.18
ASC Opinion Watch (September 2018)	9.5.18
ASC Opinion Analysis: ASC holds court of appeals' interpretation of statute was unreasonable.	9.5.18
ASC Opinion Analysis: Court holds plaintiffs cannot assert a negligence claim based on a defendant's thoughts.	9.5.18
ASC Opinion Analysis: Court takes expansive view of duress requirement of "immediate" threat.	9.5.18
COA2 Opinion Analysis- Court holds defendants can admit evidence that they are an impulsive criminal due to brain damage.	8.31.18
COA2 Opinion Analysis: He lost on [double] Jeopardy.	8.30.18
ASC Opinion Analysis: ASC holds death penalty does not violate Arizona's constitution.	8.24.18
ASC Opinion Analysis: ASC opinion calls into question the continued vitality of prominent worker's compensation case.	8.24.18
ASC Opinion Analysis: ASC's statute of limitations decision protects debtors.	8.24.18
COA1 Opinion Analysis: Court holds that state agency's hiding of appeals, rather than filing them, was bad.	8.24.18
COA1 Opinion Analysis: Court holds Arizona statute is stupid, but constitutional	8.24.18

COA1 Opinion Analysis: Court further muddies the muddy waters of family law jurisprudence	8.24.18
COA1 Opinion Analysis: A testator's "desire" is a decedent's command, not their "wish"	8.15.18
ASC Pending Cases	8.15.19
ASC Opinion Analysis: ASC makes swiss cheese out of Arizona's new anti-Chevron statute.	8.10.18
COA1 Opinion Analysis: Court holds that when it comes to service of process, email and social media are superior to newspapers.	7.17.18
ASC Pending Cases	7.16.18
COA1 Opinion Analysis: Court holds that Gilbert's requirement that furniture store pay \$1 million as a street light fee in order to get a permit, was not an unconstitutional taking.	7.13.18
ASC Opinion Analysis: The ASC holds a Batson violation does not require a new trial.	7.11.18
ASC Opinion Analysis: Eschewing stare decisis, ASC hold issue preclusion requires "actual litigation."	7.10.18
COA1 Opinion Analysis: Court holds you can take the hashish out of the marijuana, but you can't make it legal.	7.6.18
COA1 Opinion Analysis: Piñata at your own risk in Encanto Park.	7.5.18
ASC Opinion Watch	7.3.18
The argument not made, or, why you need a good appellate attorney	7.2.18
ASC orders emergency changes aimed at helping solve Antman's problem.	6.26.18
Carpenter v. US means lots of Rule 32 petitions, and lots of questions for Arizona courts to answer.	6.25.18
Opinion Analysis: In Teufel v. American Family, ASC holds insurance company has a duty to defend against an alleged common-law tort.	6.23.18
Court of Appeals fails to answer the question, "was it AN accident?"	6.19.18
ASC holds that when Mom and Dad disagree, it is up to the Court to decide what's best for the children-Friedman v. Roels	6.12.18
Arizona Supreme Court expands the list of bailable offenses- State v Wein	5.26.18
ASC decides college kids can "eat sandwiches" in their dorm rooms-State v. Maestas	5.23.18
In Arizona, traffic stops and games of tag do not have the same rules-State v Hernandez	5.18.18

# ATTACHMENT THREE

## Military Citations



# THE UNITED STATES OF AMERICA

TO ALL WHO SHALL SEE THESE PRESENTS, GREETING:

THIS IS TO CERTIFY THAT  
THE SECRETARY OF DEFENSE  
HAS AUTHORIZED THE AWARD OF THE

## DEFENSE MERITORIOUS SERVICE MEDAL

TO

LIEUTENANT COMMANDER KRISTINA B. REEVES, UNITED STATES NAVY

FOR  
EXCEPTIONALLY MERITORIOUS SERVICE  
FOR THE ARMED FORCES OF THE UNITED STATES

GIVEN UNDER MY HAND THIS            2ND            DAY OF    NOVEMBER            2009

**OFFICE OF THE SECRETARY OF DEFENSE**  
COMMAND OR OFFICE



  
\_\_\_\_\_  
SECRETARY OF DEFENSE



# Citation

TO ACCOMPANY THE AWARD OF THE  
**Defense Meritorious Service Medal**  
TO

KRISTINA B. REEVES

Lieutenant Commander Kristina B. Reeves, United States Navy, distinguished herself by exceptionally meritorious service as Military Assistant, Office of the Department of Defense General Counsel, from May 2008 to September 2009. Commander Reeves' hard-charging leadership style and knowledge of the law across a wide spectrum of subjects were critical to the provision of timely, accurate legal advice to the Secretary and Deputy Secretary of Defense in a broad array of matters, including responding to the extraordinary number and complexity of legal issues arising from military operations in Iraq and Afghanistan. Her excellent judgment and efficient management of the Immediate Office of the General Counsel of the Department of Defense assisted the Office of the General Counsel in effectively addressing highly complex, important issues, and ensured the General Counsel provided accurate legal advice to the Secretary and Deputy Secretary of Defense. The distinctive accomplishments of Commander Reeves reflect great credit upon herself, the United States Navy, and the Office of the Secretary of Defense.



# THE UNITED STATES OF AMERICA

THIS IS TO CERTIFY THAT  
THE PRESIDENT OF THE UNITED STATES OF AMERICA  
HAS AWARDED THE

## MERITORIOUS SERVICE MEDAL

TO

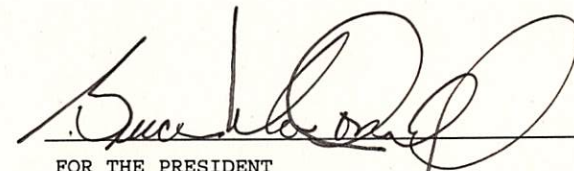
LIEUTENANT COMMANDER KRISTINA B. REEVES  
JUDGE ADVOCATE GENERAL'S CORPS, UNITED STATES NAVY

FOR

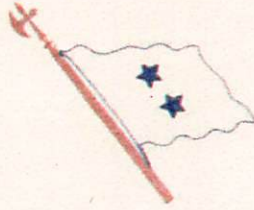
OUTSTANDING MERITORIOUS ACHIEVEMENT FROM DECEMBER 2006 TO MAY 2008



GIVEN THIS 20<sup>TH</sup> DAY OF MAY 2008

  
FOR THE PRESIDENT  
BRUCE MacDONALD  
REAR ADMIRAL, JAGC, U.S. NAVY  
JUDGE ADVOCATE GENERAL





## ***Judge Advocate General of the Navy***

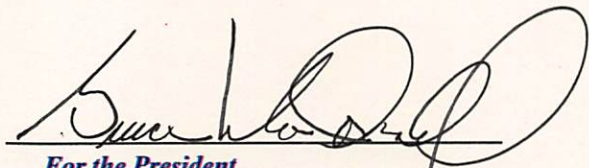
The President of the United States takes pleasure in presenting the **MERITORIOUS SERVICE MEDAL** to

**LIEUTENANT COMMANDER KRISTINA B. REEVES  
JUDGE ADVOCATE GENERAL'S CORPS  
UNITED STATES NAVY**

for service as set forth in the following

### **CITATION:**

For outstanding meritorious service as an Appellate Defense Counsel and Branch Head, Appellate Defense Division, Navy-Marine Corps Appellate Review Activity, Washington DC from December 2006 to May 2008. As Branch Head, Lieutenant Commander Reeves was personally responsible for training, developing, and mentoring of all appellate counsel within her branch, she worked with each counsel to achieve the highest quality advocacy and representation. Lieutenant Commander Reeves edited countless briefs while ensuring the accountability and performance of her branch. A natural leader with a passion for litigation, Lieutenant Commander Reeves' brainstorming sessions significantly increased the quality of legal representation, camaraderie, and teamwork throughout the division. Leading by example, she filed over 30 substantive appellate briefs and argued before the Court of Appeals for the Armed Forces. Lieutenant Commander Reeves' exceptional professional ability, steadfast initiative, and selfless dedication to duty reflected great credit upon herself and upheld the highest traditions of the United States Naval Service.



**For the President  
Rear Admiral, JAGC, U. S. Navy  
Judge Advocate General**





# DEPARTMENT OF THE NAVY

THIS IS TO CERTIFY THAT  
THE SECRETARY OF THE NAVY HAS AWARDED THE


## NAVY AND MARINE CORPS COMMENDATION MEDAL

TO  
LIEUTENANT KRISTINA B. REEVES, JUDGE ADVOCATE GENERAL'S CORPS  
UNITED STATES NAVY

FOR  
MERITORIOUS SERVICE AS TRIAL COUNSEL AND TRIAL TEAM LEADER, REGION LEGAL SERVICE OFFICE SOUTHWEST, FROM OCTOBER 2003 TO DECEMBER 2005. THE COMMAND'S MOST TENACIOUS PROSECUTOR, LIEUTENANT REEVES AGGRESSIVELY PURSUED JUSTICE IN THE MOST COMPLEX AND CONTENTIOUS CASES, INCLUDING PROSECUTIONS FOR RAPE, CHILD SEX CRIMES, AGGRAVATED ASSAULT, LARCENY, AND DETAINEE ABUSE. SHE DEMONSTRATED BRILLIANT INTELLECT IN THE SUCCESSFUL PROSECUTION OF OVER 70 CASES, OBTAINING CONVICTIONS IN ALL CONTESTED COURTS-MARTIAL. SHE CONTINUOUSLY RECEIVED PRAISE FROM CONVENING AUTHORITIES, THE JUDICIARY, AND THE NAVAL CRIMINAL INVESTIGATIVE SERVICE FOR HER ADEPT AND AGGRESSIVE TRIAL ADVOCACY. AS TRIAL TEAM LEADER, SHE WAS AN EAGER AND CAPABLE MENTOR TO FOUR JUNIOR TRIAL COUNSEL, EXPONENTIALLY ENHANCING THEIR LITIGATION SKILLS AND PROFESSIONAL DEVELOPMENT BY HELPING THEM FORMULATE WINNING TRIAL STRATEGIES AND COMPLETE PERSONNEL QUALIFICATION STANDARDS IN A TIMELY MANNER. LIEUTENANT REEVES WAS HANDPICKED TO SERVE AS ACTING SENIOR TRIAL COUNSEL DURING THAT DEPARTMENT HEAD'S ABSENCES, EXHIBITING OUTSTANDING LEGAL ACUMEN AND LEADERSHIP. BY HER NOTEWORTHY ACCOMPLISHMENTS, PERSEVERANCE, AND DEVOTION TO DUTY LIEUTENANT REEVES REFLECTED CREDIT UPON HERSELF AND UPHELD THE HIGHEST TRADITIONS OF THE UNITED STATES NAVAL SERVICE.

GIVEN THIS 9TH DAY OF DECEMBER 2005



  
FOR THE SECRETARY OF THE NAVY  
C. S. KNOWLES  
CAPT, JAGC, USN  
COMMANDING OFFICER, RLSC SW



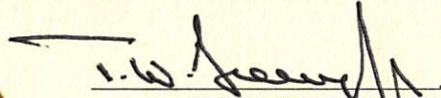


**DEPARTMENT OF THE NAVY**  
**THIS IS TO CERTIFY THAT**  
**THE SECRETARY OF THE NAVY HAS AWARDED THE**  
**NAVY AND MARINE CORPS ACHIEVEMENT MEDAL**  
**(GOLD STAR IN LIEU OF FOURTH AWARD)**  
**TO**  
**LIEUTENANT KRISTINA B. REEVES, JUDGE ADVOCATE GENERAL'S CORPS**  
**UNITED STATES NAVY**  
**FOR**

PROFESSIONAL ACHIEVEMENT IN THE PERFORMANCE OF HER DUTIES WHILE SERVING AS CIVIL LAW INSTRUCTOR FROM DECEMBER 2005 TO DECEMBER 2006, NAVAL JUSTICE SCHOOL DETACHMENT SAN DIEGO, CALIFORNIA. DURING HER TENURE, LIEUTENANT REEVES DEMONSTRATED EXCEPTIONAL KNOWLEDGE AND LEADERSHIP SKILLS BY PROVIDING LEGAL TRAINING TO NEARLY 600 OFFICER AND ENLISTED STUDENTS IN 25 COURSES TAUGHT THROUGHOUT THE WEST COAST AND SERVING AS THE RESIDENT CIVIL LAW EXPERT. ON HER OWN INITIATIVE, SHE UNDERTOOK THE ARDUOUS AND COMPLEX TASKS OF REVISING AND UPDATING THE CIVIL LAW COURSE MATERIALS. SHE WAS INSTRUMENTAL IN COORDINATING REVISIONS FOR TWO KEY FACT SCENARIOS VITAL TO THE SUCCESS AND INTEGRITY OF THE LEGAL OFFICER COURSE. ADDITIONALLY, WITHIN A FOUR MONTH PERIOD, SHE PROVIDED COMMAND FAMILY ADVOCACY TRAINING TO OVER 100 COMMAND FAMILY ADVOCACY REPRESENTATIVES WITHIN THE SOUTHWEST REGION. SHE ALSO UNSELFISHLY ASSISTED LOCAL COMMANDS BY SERVING AS AN ARTICLE 32 OFFICER AND PROVIDED COMMAND SERVICES TO FLEET UNITS IN NAVY REGION SOUTHWEST. BY HER NOTEWORTHY ACCOMPLISHMENTS, PERSEVERANCE, AND DEVOTION TO DUTY, LIEUTENANT REEVES REFLECTED GREAT CREDIT UPON HERSELF AND UPHELD THE HIGHEST TRADITIONS OF THE UNITED STATES NAVAL SERVICE.

GIVEN THIS 28 TH DAY OF NOVEMBER 2006



  
SECRETARY OF THE NAVY

FOR THE  
T. W. GREENE, JR.  
CAPTAIN, JAGC, U.S. NAVY  
COMMANDING OFFICER  
NAVAL JUSTICE SCHOOL, NEWPORT





**DEPARTMENT OF THE NAVY**  
**THIS IS TO CERTIFY THAT**  
**THE SECRETARY OF THE NAVY HAS AWARDED THE**  
**NAVY AND MARINE CORPS ACHIEVEMENT MEDAL**  
**GOLD STAR IN LIEU OF THIRD AWARD**  
**TO**

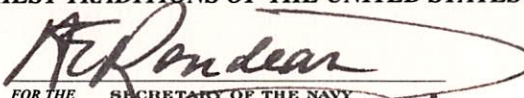
**LIEUTENANT KRISTINA B. REEVES, UNITED STATES NAVAL RESERVE**

**FOR**

**PROFESSIONAL ACHIEVEMENT IN THE SUPERIOR PERFORMANCE OF HER DUTIES WHILE ASSIGNED TO THE STAFF JUDGE ADVOCATE OFFICE, NAVAL TRAINING CENTER, GREAT LAKES FROM 10 JUNE TO 13 SEPTEMBER 2002. DURING HER SUMMER INTERNSHIP UNDER THE LAW EDUCATION PROGRAM, LT REEVES EXCEEDED ALL EXPECTATIONS DISPLAYING THE PROFESSIONALISM, DEDICATION, AND LEGAL SKILLS OF A SEASONED JUDGE ADVOCATE. LT REEVES IMMEDIATELY BECAME A KEY PLAYER IN PROCESSING AN ENORMOUS LEGAL WORKLOAD, INCLUDING FLAG ENDORSEMENTS FOR SEVEN INVESTIGATIONS, A LITIGATION REPORT, AN ARTICLE 138 COMPLAINT, THE PROCESSING OF A GENERAL COURT-MARTIAL CASE, DRAFTING FLAG LEGAL INSTRUCTIONS, AS WELL AS COUNTLESS CALLS FOR COMMAND ADVICE. SHE EASILY HANDLED NUMEROUS HIGHLY SENSITIVE, COMPLEX LEGAL ISSUES DISPLAYING SUPERB RESEARCH AND LEGAL WRITING ABILITY. AMONG THOSE WAS A CRITICAL FORCE PROTECTION ISSUE ON ENFORCEMENT OF THE BASE RESTRICTED AREA AND A CRITICAL MORALE MATTER INVOLVING HOUSING. LT REEVES' PROFESSIONALISM, INITIATIVE, AND LOYAL DEDICATION TO DUTY REFLECTED GREAT CREDIT UPON HERSELF AND WERE IN KEEPING WITH THE HIGHEST TRADITIONS OF THE UNITED STATES NAVAL SERVICE.**

**GIVEN THIS 27TH DAY OF AUG 2002**



  
FOR THE SECRETARY OF THE NAVY  
**A. E. RONDEAU**  
Rear Admiral, U.S. Navy  
Commander  
Naval Training Center, Great Lakes



# DEPARTMENT OF THE NAVY

THIS IS TO CERTIFY THAT  
THE SECRETARY OF THE NAVY HAS AWARDED THE

## NAVY AND MARINE CORPS ACHIEVEMENT MEDAL (GOLD STAR IN LIEU OF THE SECOND AWARD)

TO  
LIEUTENANT JUNIOR GRADE, KRISTINA B. LUCAS  
UNITED STATES NAVAL RESERVE

FOR

PROFESSIONAL ACHIEVEMENT IN THE SUPERIOR PERFORMANCE OF HER DUTIES WHILE SERVING AS FIRST LIEUTENANT AND TRAINING OFFICER ABOARD USS FLETCHER (DD 992) FROM NOVEMBER 1997 TO DECEMBER 1999. LTJG LUCAS CONSISTENTLY PERFORMED HER DEMANDING DUTIES IN AN EXEMPLARY AND HIGHLY PROFESSIONAL MANNER. AS 1<sup>ST</sup> LT, SHE LED DECK DIVISION THROUGH A CHALLENGING AND DEMANDING DSRA PERIOD WHICH INCLUDED AN ENTIRE SHIP PAINT-OUT AND RESURFACING OF ALL WEATHER DECKS WITH LSA MATERIALS, AN EXPERIMENT WITH IMPLICATIONS FOR THE NAVY AS A WHOLE. AS TRAINING OFFICER, SHE ORGANIZED AND IMPLEMENTED A JUNIOR OFFICER TRAINING PROGRAM TO PROVIDE JUNIOR OFFICERS WITH THE TRAINING AND GUIDANCE TO RECEIVE THEIR WARFARE QUALIFICATIONS WITHIN AN AGGRESSIVE FOUR MONTH PERIOD. LTJG LUCAS' PROFESSIONALISM AND DEVOTION TO DUTY REFLECTED GREAT CREDIT UPON HERSELF AND WERE IN KEEPING WITH THE HIGHEST TRADITIONS OF THE UNITED STATES NAVAL SERVICE.

GIVEN THIS 15<sup>TH</sup> DAY OF DECEMBER 1999



FOR THE SECRETARY OF THE NAVY  
C. D. NOBLE, CDR, USN  
Commanding Officer,  
USS FLETCHER (DD 992)





# DEPARTMENT OF THE NAVY

THIS IS TO CERTIFY THAT  
THE SECRETARY OF THE NAVY HAS AWARDED THE

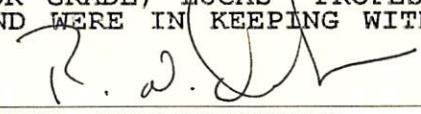
## NAVY AND MARINE CORPS ACHIEVEMENT MEDAL

TO  
LIEUTENANT (JUNIOR GRADE) KRISTINA B. LUCAS  
UNITED STATES NAVAL RESERVE  
FOR

PROFESSIONAL ACHIEVEMENT IN THE SUPERIOR PERFORMANCE OF HER DUTIES WHILE SERVING AS FIRST LIEUTENANT ABOARD USS FLETCHER (DD 992) FROM MARCH 1999 TO APRIL 1999. LIEUTENANT (JUNIOR GRADE) LUCAS CONSISTENTLY PERFORMED HER DEMANDING DUTIES IN AN EXEMPLARY AND HIGHLY PROFESSIONAL MANNER. THROUGH EFFECTIVE MANAGEMENT OF THE RESOURCES MADE AVAILABLE TO HER, SHE COORDINATED AND EXECUTED A FLAWLESS CHANGE OF COMMAND CEREMONY FOR THE COMMANDER, DESTROYER SQUADRON 31. RECOGNIZING THE IMPORTANCE OF THE EVENT TO THE COMMAND AND THE SQUADRON AS A WHOLE, LIEUTENANT (JUNIOR GRADE) LUCAS BEGAN PLANNING AND PREPARATION MONTHS IN ADVANCE OF THE EVENT. DESPITE THE INTENSE OPERATIONAL DEMANDS OF AN ONGOING OVERSEAS DEPLOYMENT, SHE CLOSELY SUPERVISED THE REQUISITIONING OF ESSENTIAL SUPPLIES AND THE EARLY DISTRIBUTION OF WORK ASSIGNMENTS AND RESPONSIBILITIES. LIEUTENANT (JUNIOR GRADE) LUCAS' PROFESSIONALISM AND DEVOTION TO DUTY REFLECTED GREAT CREDIT UPON HERSELF AND WERE IN KEEPING WITH THE HIGHEST TRADITIONS OF THE UNITED STATES NAVAL SERVICE.

GIVEN THIS 2nd DAY OF June 19 99



  
FOR THE SECRETARY OF THE NAVY  
R. W. DURHAM, CDR, USN  
Commanding Officer,  
USS FLETCHER (DD 992)



*For Service within the*  
**Office of the Secretary of Defense**

**LIEUTENANT COMMANDER KRISTINA B. REEVES**  
**UNITED STATES NAVY**

*is authorized to wear the*  
**Office of the Secretary of Defense**  
**Identification Badge**

*Date Authorized:* 23 MAY 2009



*Robert M. Gates*  
Secretary of Defense

# ATTACHMENT

## FOUR

Statement Explaining Why  
I am Seeking This Position

## STATEMENT EXPLAINING WHY I AM SEEKING A POSITION ON THE ARIZONA COURT OF APPEALS

For all its imperfections, the rule of law in this nation truly is a wonder, and it is no wonder that it is the envy of the world. Under our constitution, it is for the congress, the people's representatives, to make new laws, for the executive to ensure those laws are faithfully enforced, and for neutral and independent judges to apply the law in the people's disputes. If judges were just secret legislators, declaring not what the law is but what they would like it to be, the very idea of government by the people and for the people would be at risk. Those who came to the court would live in fear, never sure exactly what governs them except the judge's will. As Alexander Hamilton explained, liberty can have nothing to fear from judges who apply the law, but liberty has everything to fear if judges try to legislate too. To be a judge, and a part of such an awe-inspiring system as our system of government is, would be an honor and a privilege.

My great-grandparents left their tribal lands to find a better life for their children. My grandfather made his living through Arizona's copper mines, working over fifty years in the same job, in order to support his family. My grandmother raised four children in a tiny, two-bedroom home in a small Arizona town. My father served his country in the Navy, while my mother raised six children. There is no question on whose shoulders I stand. I am who I am because of those who I have come from. My grandparents and my parents taught me the value of service to country, the value of working hard no matter how hard the work, and above all else, the value of family. These have been my values throughout my life, and they are the same values that motivate me to seek a position on the court.

I believe that putting on a black robe does not imbue anyone with wisdom. Instead, putting on a robe should remind a judge that it's time to lose her ego, and open her mind. I believe that good judges are ones that are always open to the possibility of changing their minds based on the next brief that they read, or the next argument that is made by an attorney who is appearing before them, or a comment that is made by a colleague during discussions regarding the case. Chief Justice Warren Burger, when asked the basis for his decision on a case, is rumored to have replied, "We are the supreme court. We can do anything we want." He was wrong. The judge's robe is not a symbol of superior knowledge or power, and a judge's robe does not mean that a person possesses judgment above that of his fellow citizens, or their elected representatives. Rather, the judge's robe is a reminder of the modest station judges are meant to occupy in our democracy. In other countries, judges wear scarlet and gold, silk and fine cloths. Ours is a judiciary of plain and honest black polyester. Wearing that simple black robe, and being a part of that honest judiciary, is a goal that I find worth pursuing.

Words matter and a judge's job is to follow the words that are in the law, not to replace them with words that are not. But a legal case isn't just some number or a name;



it is a person, it is a life story. Sometimes, the fact that people will be affected by rulings can make a judge's job hard because sometimes, a judge's obligation to follow the law wherever it goes without fear or favor to anyone, means that a judge will reach decisions that she does not like. A judge who likes every outcome she reaches is probably a pretty bad judge. Sometimes the result the law compels is not personally desirable, but a judge's commitment to the rule of law means that in every single case, the judge has to do what the law requires. There is nothing more important to this country than the rule of law, and my commitment to the rule of law is also part of why I am seeking a position on the court.

I have had the honor of spending the vast majority of my career in public service. I have learned a lot during my years serving in the military and as a lawyer. In traveling to other countries who lacked our constitution and our system of government, I learned the value of our democratic system. As an attorney, both in the military and as a civilian, I learned the way a judge should go about judging to preserve the democracy which is at the heart of this nation and its freedom. My military service and service as an assistant attorney general gave me the opportunity to use whatever talent I have to serve our country and our state by upholding the rule of law. When I was sworn in as an officer in the United States Navy, and at every military promotion, I swore an oath to protect and defend the constitution of the United States. I have always taken my oath seriously, and strived to fulfill it to the best of my ability.

In short, I seek the honor of upholding the constitutions and laws of this country and this state as a judge on the court of appeals because the work of judges helps make the promises of our constitutions and laws be realized. Our democracy does not work without people who are willing to do the work. In every case that comes before the court, from simple contract disputes to questions of constitutional law, a judge who fairly and justly applies the law contributes to the promises of democracy. It is work that is well worth doing. It is work that I believe I could do, and do well.

# ATTACHMENT

## FIVE

First Writing Sample

Whether A.R.S. §§ 8-533(B) and (B)(8)(c) are sufficiently narrowly tailored to survive strict-scrutiny analysis is a question of first impression in Arizona. In order for a statute to be deemed narrowly tailored, it must satisfy three requirements. First, a statute will be deemed narrowly tailored only “if it targets and eliminates no more than the exact source of the ‘evil’ it seeks to remedy.” *Frisby v. Schultz*, 487 U.S. 474, 475 (1988). Second, “[t]o satisfy the strict scrutiny standard, the state must show that the statute is necessary to achieve the compelling state interest.” *Kenyon v. Hammer*, 142 Ariz. 69, 86-87 (1984) (citing *Bernal v. Fainter*, 467 U.S. 216 (1984)). “The test . . . for ‘necessity’ is that the statute furthers the compelling interest ‘by the least restrictive means practically available.’” *Id.* Third, encompassed within the narrowly tailored requirement is the requirement that a statute cannot be over-inclusive. See *Austin v. Mich. Chamber of Commerce*, 494 U.S. 652, 666 (1990), *overruled on other grounds by Citizens United*, 558 U.S. at 310. A statute is “over-inclusive” if it “burden[s] more persons than necessary to cure the problem.” *Black’s Law Dictionary* 1279 (10th ed. 2014).

Thus, in order for Arizona’s statutes to survive strict scrutiny, the statutes must target and eliminate harm to children, and go no further; eliminate this harm by the least restrictive means possible; and must not

burden more parents than is necessary to protect children from harm. Here, both statutes fail every requirement.

**1. Arizona's statutes go beyond targeting and eliminating harm to children.**

The 'evil' the statutes seek to remedy is harm to children. The statutes, however, go beyond targeting and eliminating this evil. They permit a court to find that the State has satisfied their burden to prove their alleged grounds for termination even when the State has offered no evidence, let alone clear and convincing evidence, that children would be harmed if termination did not occur.

Although Arizona has yet to apply strict scrutiny to its termination statutes, other state courts have done so to their own parental-rights-termination statutes. While their opinions are not binding on this court, they offer persuasive authority. *See State v. Dean*, 226 Ariz. 47, 53 ¶ 19 (App. 2010) ("Legal precedents from other jurisdictions [are] informative.")

In Washington, its parental-rights-termination statutes require that, in every case, the State prove, "by clear, cogent and convincing evidence," that "continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent

home.” *M.-A.F.-S.*, 421 P.3d at 494–95 ¶52 (citing RCW 13.34.190(1)(a)(i)). Citing this requirement, Washington’s Court of Appeals has held that Washington’s parental-rights-termination statutes “ensure” “that the requisite harm to the child is not merely an abstract concept.” *M.-A.F.-S.*, 421 P.3d at 496 ¶59. Washington’s courts have found that Washington’s parental-rights-termination statutes survive strict scrutiny because “the termination statutes require the State to prove ‘in every instance’ that termination of parental rights is necessary to prevent harm or the risk of harm to children.” *Id.* at ¶57. Similarly, New Jersey’s parental-rights-termination statutes have been held by New Jersey’s appellate courts to survive strict scrutiny because they require the State to prove, by clear and convincing evidence, in every case, that “[t]ermination of parental rights will not do more harm than good.” *In re Guardianship of Jordan*, 336 N.J. Super. 270, 274 (App. 2001) (citing N.J.S.A. 30:4C-15.1(a)).

In contrast Washington’s and New Jersey’s statutes that specifically incorporate a requirement that the State prove by clear and convincing evidence that termination is necessary to prevent harm to the child, Arizona’s statutes fail to incorporate a specific requirement that the State prove, in every instance, by clear and convincing evidence, that

termination is necessary to prevent harm to the child. Rather, in Arizona, the State is only required to prove, in the best-interest stage that occurs only after the court finds that the termination statute has been satisfied, “how the child will benefit from severance” or “the child will be harmed if severance is denied.” *Alma S. v. DCS*, 245 Ariz. 146, 150 ¶13 (2018). Since this occurs in the best-interest analysis the standard is preponderance of the evidence. *Id.* at 150 ¶ 8. Thus, in Arizona, parental rights may be terminated based merely on a finding, by a preponderance of the evidence, that a child would benefit from a severance. *Id.* It is not required that the State ever prove that termination is necessary to prevent harm to the child.

Like Arizona, Florida’s current termination statutes do not incorporate a requirement that the State prove a risk of significant harm to the child from reunification. *B.C. v. Dep’t of Children & Families*, 887 So.2d 1046, 1050 (Fla. 2004). In considering the statutes, Florida’s Supreme Court recognized the constitutional infirmity created by the absence of this requirement. *Id.* at 1052. In a decision pre-dating the current statutes, Florida had held that in order to comply with constitutional requirements, “before parental rights in a child can be permanently and involuntarily severed, the state must show by clear and convincing evidence that

reunification with the parent poses a substantial risk of significant harm to the child.” *Padgett v. Dep’t of Health & Rehab. Services*, 577 So. 2d 565, 571 (1991). In order to preserve the constitutionality of its current statutes, the Florida Supreme held that Florida’s newly amended statutes “must be read in light of *Padgett’s* requirement... that ‘the state must show by clear and convincing evidence that reunification with the parent poses a substantial risk of significant harm to the child.’” *B.C.*, 887 So.2d at 1050. Reading the statutes to include *Padgett’s* requirement, Florida’s Supreme Court held that its statutes are constitutional. *Id.*

The Florida Supreme Court correctly concluded that the absence in its statute of any language requiring the State to prove, by clear and convincing evidence, that termination is necessary to prevent harm to the child rendered its statutes unconstitutional. But the court was mistaken in its conclusion that it could read into its statutes language that was not there in order to rescue the unconstitutional statutes. The United States Supreme Court has held that a court “cannot rewrite a...law to conform it to constitutional requirements, for doing so would constitute a serious invasion of the legislative domain, and sharply diminish Congress’s incentive to draft a narrowly tailored law in the first place.” *United States v.*

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SIX

Second Writing Sample



In arguing that trial counsel's performance was deficient, Dann asserts, "It cannot be seriously argued that allowing potentially biased jurors to remain on the jury in a capital case *without any attempt* to ascertain whether or not they could set aside any pre-conceived opinions and render a just verdict is competent advocacy." (Pet. at 37 (emphasis added).) Such a statement would only apply, however, if *no voir dire* of the panel had been conducted. But in this case, *voir dire* of the panel was conducted<sup>1</sup>. The court, the prosecutor, and defense counsel all questioned the panel. (See generally, R.T. 9/20/01.) There was an attempt, by all parties, to ascertain whether or not the veniremen could set aside any pre-conceived opinions and render a just verdict. Dann's leap from claiming that defense counsel's *voir dire* was inadequate to arguing that no *voir dire* was done at all is not tethered to the law nor the facts, and thus fails.

Dann also argues that trial counsel failed to ask several questions that were necessary to ensure that a fair and impartial jury was impaneled and that this failure amounted to deficient performance. Dann takes issue with defense counsel's *voir dire* of 11 specific jurors. (Jurors 2, 30, 32, 41, 52, 51, 20, 21, 26, 57 and 58, Pet. at 34–36.) Of those, three were dismissed with preemptory challenges (Jurors 2, 30,

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<sup>1</sup> Although a majority of the *voir dire* was done by the court, Dann's claim that defense counsel asked "**no** questions on *voir dire*" is inaccurate. (Pet. at 39 (emphasis in original).) Defense counsel asked some questions on *voir dire*. (R.T. 9/20/01, at 136.)

and 41 (R.T. 9/20/01 at 141)), and one was ultimately dismissed as an alternate (Juror 26, R.T. 9/24/01 at 69–70)). To succeed on a claim that defense failed to adequately question the jury panel, Dann must demonstrate not only that the *voir dire* examination was inadequate, but also that, as a result of the inadequate questioning, the jury selected was not fair, unbiased, and impartial. *See State v. Walden*, 183 Ariz. 595, 607, 905 P.2d 974, 986 (1995). Therefore, to the extent Dann’s claim succeeds at all, it must succeed on the basis of the jury actually selected. Dann’s claims as to jurors who did not ultimately sit on his jury were mooted the moment those veniremen were excused.

This Court conducted extensive *voir dire*. Dann fails to show that defense counsel’s exercise of judgment in choosing not to conduct additional *voir dire*, in light of this Court’s already extensive *voir dire*, was not objectively reasonable. “An attorney’s actions during *voir dire* are considered to be matters of trial strategy.” *Teague v. Scott*, 60 F.3d 1167, 1172 (5th Cir.1995). “A strategic decision cannot be the basis for a claim of ineffective assistance unless counsel’s decision is shown to be so ill chosen that it permeates the entire trial with obvious unfairness.”

While Dann argues that trial counsel failed to ask several questions that were necessary to ensure that a fair and impartial jury was impaneled, Dann puts forth no argument as to what specific additional questions counsel should have asked. Instead, Dann asks this Court to assume incompetent advocacy because some

members of the jury *may* have “had issues that *could* have affected their impartiality.” (Pet. at 39 (emphasis added).) However, to show that “counsel’s decision” was so “ill chosen that it permeate[d] the entire trial with obvious unfairness” (*Teague*, 60 F.3d at 1172), Dann is required to do more than speculate that *it is possible* that a member of the jury *may* have had an issue which *could have possibly* affected his impartiality. Dann must show that there are questions that a reasonably competent attorney would have asked and that his counsel’s failure to ask them permeated the entire trial with fairness.

The conduct of *voir dire* “will in most instances involve the exercise of a judgment which should be left to competent defense counsel.” *Gustave v. United States*, 627 F.2d 901, 906 (9th Cir. 1980). This Court is required to show “a high level of deference ... to counsel's decisions during jury selection.” *Carrera v. Ayers*, 670 F.3d 938, 948 (9th Cir. 2011). While Dann may take issue with counsel’s judgment, he must assert more than “mere speculation” that counsel’s judgement resulted in jurors who *may* have had issues which *could have possibly* affected their impartiality. *See State v. McDaniel*, 136 Ariz. 188, 198, 665 P.2d 70, 80 (1983). Dann has failed to do so and thus has failed to establish that his counsel performed deficiently.

- 1. Even if trial counsel’s performance was deficient, Dann has failed to show that he was prejudiced.***

In addition to proving deficient performance, a petitioner must affirmatively prove prejudice. *Strickland*, 466 U.S. at 693. Dann contends that, despite this requirement, he need not show prejudice on this particular IAC claim. Instead, he claims, prejudice should be presumed because error involving the composition of a jury is structural error. (Pet. at 38-9.) This argument, however, impermissibly skips a crucial step. There only exists error in the composition of the jury if the jury was not fair, unbiased, and impartial. Dann is not entitled to a presumption that his jury was so composed. Dann cannot impermissibly leapfrog from his claim of error in *voir dire* to a presumption that the jury was not fair, unbiased and impartial.

Dann is required to prove prejudice and to prove prejudice, Dann *has to show* that it was reasonably likely that the error he alleges actually did result in a jury that “was not fair, unbiased, and impartial.” *See Walden*, 183 Ariz. at 607. Dann must demonstrate “actual prejudice.” *Id.* Therefore, “unless the record affirmatively shows that defendant was not tried by a fair and impartial jury, then there is no error.” *State v. Thomas*, 133 Ariz. 533, 537, 652 P.2d 1380, 1384 (1982). Dann cannot show that he was prejudiced by this jury without showing specific and “actual prejudice.” *Morris*, 215 Ariz. at 335, ¶ 43. And in this effort, Dann falls significantly short.

Dann’s attempt to show prejudice rests on his claim that his jury was not fair, unbiased and impartial because it had jurors on it “whom were crime victims, were biased regarding witness testimony, and had previously found people guilty of

serious crimes, including murder.” (Pet. at 36.) Dann does not argue why any of these qualities rendered these jurors unfair, biased or partial. Instead, Dann seems to argue that these jurors should be presumed to be biased based on those qualities. However, “courts may presume bias” only in “extraordinary circumstances.” *Dyer v. Calderon*, 151 F.3d 970, 981 (9th Cir.). Absent extraordinary circumstances, in order, “[t]o show a juror was biased, a defendant must show that the juror had such a fixed opinion that he or she could not judge impartially”. *Hale v. Gibson*, 227 F.3d 1298, 1319 (10th Cir.) citing *Patton v. Yount*, 467 U.S. 1025, 1035 (1984). Dann has failed show either extraordinary circumstances that would justify a presumption of bias or that any of the complained of jurors were actually biased.

As to juror 41, Dann takes issue with several statements made by that juror including that he had once been indicted, but not convicted, for theft, that he was close friends with then Maricopa County Attorney Richard Romley, and that he knew Dann’s father in an official capacity. (Pet. at 35.) Both the court and defense counsel asked follow up questions. (R.T. 9/20/01 at 132-37.) Juror 41 stated that there was not anything “that would deter [him] from making a just decision” (*Id.* at 133) and that he did not think he had “any prejudice” (*Id.* at 135). Therefore, as to this juror, Dann has failed to show any actual bias. Neither has he shown that this juror should be presumed bias.